S. HRG. 98-63

DEPARTMENT OF ENERGY FISCAL YEAR 1984 AUTHORIZATION (Conservation Programs and the Energy Information Administration)

HEARING

BEFORE THE

SUBCOMMITTEE ON
ENERGY CONSERVATION AND SUPPLY

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

TO

REVIEW THE DEPARTMENT OF ENERGY'S FISCAL YEAR 1984 BUDGET REQUEST

MARCH 8, 1983

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1983

19-313 O

S311-39

COMMITTEE ON ENERGY AND NATURAL RESOURCES

JAMES A. McCLURE, Idaho, *Chairman*

MARK O. HATFIELD, Oregon
LOWELL P. WEICKER, JR., Connecticut
PETE V. DOMENICI, New Mexico
MALCOLM WALLOP, Wyoming
JOHN W. WARNER, Virginia
FRANK H. MURKOWSKI, Alaska
DON NICKLES, Oklahoma
CHIC HECHT, Nevada
JOHN H. CHAFEE, Rhode Island
JOHN HEINZ, Pennsylvania

J. BENNETT JOHNSTON, Louisiana
HENRY M. JACKSON, Washington
DALE BUMPERS, Arkansas
WENDELL H. FORD, Kentucky
HOWARD M. METZENBAUM, Ohio
SPARK M. MATSUNAGA, Hawaii
JOHN MELCHER, Montana
PAUL E. TSONGAS, Massachusetts
BILL BRADLEY, New Jersey

MICHAEL D. HATHAWAY, *Staff Director*
CHARLES A. TRABANDT, *Chief Counsel*
D. MICHAEL HARVEY, *Chief Counsel for the Minority*

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

LOWELL P. WEICKER, JR., Connecticut, *Chairman*

MARK O. HATFIELD, Oregon
JOHN H. CHAFEE, Rhode Island
JOHN W. WARNER, Virginia
JOHN HEINZ, Pennsylvania

SPARK M. MATSUNAGA, Hawaii
HOWARD M. METZENBAUM, Ohio
PAUL E. TSONGAS, Massachusetts
BILL BRADLEY, New Jersey

JAMES A. McCLURE and J. BENNETT JOHNSTON are Ex Officio Members of the Subcommittee

TOM WINN, *Professional Staff Member*

CONTENTS

STATEMENTS

	Page
Evered, Hon. J. Erich, Administrator, Energy Information Administration, Department of Energy	29
Tribble, Hon. Joseph J., Assistant Secretary for Conservation and Renewable Energy, Department of Energy, accompanied by Robert San Martin, Deputy Assistant Secretary for Renewable Energy; and Dr. Melvin H. Chiogioji, Director, Office of State and Local Assistance Programs	2
Weicker, Hon. Lowell P., Jr., a U.S. Senator from the State of Connecticut	1

APPENDIX

Responses to additional committee questions	35

DEPARTMENT OF ENERGY FISCAL YEAR 1984 AUTHORIZATION

(Conservation Programs and the Energy Information Administration)

TUESDAY, MARCH 8, 1983

U.S. SENATE,
SUBCOMMITTEE ON CONSERVATION AND SUPPLY,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 8:30 a.m., in room SD-366, Dirksen Office Building, Hon. Lowell P. Weicker, Jr., presiding.

Present: Senators Weicker and Hecht.

Also present: Tom Winn, professional staff member; Benjamin S. Cooper, professional staff member for the minority; and James T. Bruce, counsel for the minority.

OPENING STATEMENT OF HON. LOWELL P. WEICKER, JR., A U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator WEICKER. Today the Subcommittee on Energy Conservation and Supply will conduct budget oversight hearings on the Department of Energy's energy conservation programs and on the Energy Information Administration.

We meet in a substantially changed energy environment from recent years, an environment marked by falling oil prices and continued decline of crude oil imports. These changes have been brought about by decreased demand, and that decreased demand is in turn the result of the recession, of fuel switching, and most certainly of energy conservation.

Today we also meet in the context of new leadership at the Department of Energy. I have had the opportunity to meet with Secretary Hodel, and I welcome his candor as well as his reasonable and pragmatic leadership. I particularly welcome his support for an increase in the energy conservation and R&D budget, yet for the third year in a row the Department proposes to zero out State and local energy conservation grants. For the third year in a row the Department proposes to dispatch these programs to either HUD or HHS without any specific funding, and for the third year in a row the administration proposes a substantial cut in low-income energy assistance, and I think I am on very safe ground in

predicting that for the third year in a row Congress will make the wise decision to reject these proposals.

Let me say as clearly as I know how that this is not the time to let the Federal energy conservation programs lapse. This is the time for the Federal Government to aggressively assert its leadership and maintain the Nation's commitment to conservation. Simply because the screws OPEC had on our economy have loosened, there is a great temptation to ignore the recent past. State and local governments, faced with tremendous budget pressures, will be particularly susceptible to this temptation. It is up to the Federal Government to set the example in this respect and refuse to be lulled into energy inertia and provide the incentives for conservation so that we establish and maintain reasonable energy prices.

I do not intend to sit back and accept lower energy costs and assume that we have seen the last energy crisis. We have not seen the last crisis, and the more time and effort we spend preparing for the future, the better we will be able to manage what comes next.

Mr. Tribble, it is a pleasure to have you before the committee. Why don't you proceed in any manner that you are comfortable with.

I would appreciate it if you would introduce your colleagues at the table.

STATEMENT OF HON. JOSEPH J. TRIBBLE, ASSISTANT SECRETARY FOR CONSERVATION AND RENEWABLE ENERGY, DEPARTMENT OF ENERGY; ACCOMPANIED BY ROBERT SAN MARTIN, DEPUTY ASSISTANT SECRETARY FOR RENEWABLE ENERGY; AND DR. MELVIN H. CHIOGIOJI, DIRECTOR, OFFICE OF STATE AND LOCAL ASSISTANCE PROGRAMS

Mr. TRIBBLE. Thank you, Mr. Chairman. I am Joseph J. Tribble, Assistant Secretary for Conservation and Renewable Energy for the Department of Energy, and with me on my left is Dr. Robert San Martin who is Deputy Assistant Secretary for Renewable Energy, and on my right, Dr. Melvin Chiogioji, who is Director of the Office of State and Local Assistance Programs.

The testimony that we have submitted does in fact go into detail on the various technologies and other activities that this subcommittee is interested in, so we will not review those; but I do have several general comments that I would like to make.

We welcome the opportunity to meet with you again to discuss the proposals we have made in the 1984 budget for the conservation and renewable energy programs under your purview. In accordance with the guidance provided last year by Congress, the fiscal year 1984 conservation budget is submitted on the basis of end-use sectors rather than the more generic categories which characterized the 1983 request. We will cover the details of those in the question period.

By way of general comment, we should mention that the U.S. energy supply situation today is more favorable, of course, than it was this time last year. Recent figures indicate that net imports of petroleum into the United States, excluding SPR imports, are now down to 4 million barrels per day. Considering the deliveries of pe-

troleum to the United States from Mexico, Venezuela, and the North Sea, we as a nation are far less vulnerable to disruptions in supply from the Arab OPEC nations than we were previously.

The oversupply of oil is putting pressure on prices as seen in recent price reductions. Second, there are now more than 300 million barrels of oil in the strategic petroleum reserve. Third, efforts to improve the efficiency with which we use energy are continuing and the results of past efforts continue to pay dividends.

These favorable circumstances should in no way minimize the importance of conservation. Generally, a timeframe of several years is required between the time research is done and the time the results of that research are placed into widespread use. By then, the price of energy will surely be higher.

With respect to energy from renewable sources, the dramatic rise in energy prices and numerous technical achievments in innovative energy technologies during the past 10 years have contributed to the emergence of a viable renewable energy industry. Research is still necessary, however, to expand the technology base so that this industry can continue to develop with its own investment capital.

The Federal role in this context is to sponsor energy research which industry cannot reasonably be expected to do alone but which, if done, would be in the national interest.

Some concern has been expressed recently about the possible negative impact of falling energy prices on conservation and the use of renewable energy sources. We are aware of the fact that the falling energy prices we are now experiencing put an additional burden on the Department to highlight the importance of continuing conservation and renewable energy efforts. As a nation we should not conclude that short-term changes in prices and supply lead to reduced need for conservation and renewables.

Mr. Chairman, that concludes my summary statement. We will be pleased to attempt to answer the questions you or the other members of the subcommittee have.

[The prepared statement of Mr. Tribble follows:]

Statement of

Joseph J. Tribble

Assistant Secretary for

Conservation and Renewable Energy

before

Senate Energy and Natural Resources Committee

Subcommittee on Energy Conservation and Supply

on

March 8, 1983

Mr. Chairman and Members of the Subcommittee:

We welcome the opportunity to meet with you again to discuss the proposals we have made in the FY 1984 budget for Conservation and Renewable Energy programs under your purview. In accordance with guidance provided last year by Congress, the FY 1984 conservation budget is submitted on the basis of end-use sectors rather than the more generic categories which characterized the FY 1983 request. We will cover the details of these sectors, however, some general comments are appropriate. First, the U.S. energy supply situation is even more favorable this year than it was at this time last year. Recent figures indicate that net imports of petroleum into the United States (excluding SPR imports) are now down to 4 million barrels per day. Considering the deliveries of petroleum to the United States from Mexico, Venezuela, and the North Sea, we as a Nation are far less vulnerable to disruptions in supply from the Arab OPEC nations than we were previously. The over-supply of oil is putting pressure on prices, as seen in recent price reductions. Second, there are now more than 300 million barrels of oil in the Strategic Petroleum Reserve. Third, efforts to improve the efficiency with which energy is used are continuing, and the results of past efforts continue to pay dividends. These favorable circumstances should in no way minimize the importance of conservation. Generally, a time frame of several years is required between the time research is done and the time the results of that research are placed into widespread use. By then, the price of energy will surely be higher.

With respect to energy from renewable sources, the dramatic rise in energy prices and numerous technical achievements in innovative energy technologies during the past ten years have contributed to the emergence of a viable renewable energy industry. Research is still necessary, however, to expand the technology base so that this industry can continue to develop with its own investment capital. The Federal role in this context is to sponsor long-range, high-risk, high-payoff energy research which industry cannot reasonably be expected to do alone; but which, if done, would be in the national interest.

Some concern has been expressed recently about the possible negative impacts of falling energy prices on conservation and use of renewable energy resources. We are well aware of the fact that the falling energy prices we are now experiencing put an additional burden on the Department to highlight the importance of continuing conservation and renewable energy efforts. As a Nation, we ought not to conclude that short-term changes in prices or supply lead to reduced need for conservation and renewables.

The FY 1984 program plan upon which the budget request is based, represents a continuing commitment to research and development in those technologies needing further Federal support. The funding proposals were carefully reviewed to ensure that activities to be funded are consistent with the national need. In formulating the request, the Department considered a number of inputs, including sources such as the Energy Research Advisory Board (ERAB), Congressional hearings and correspondence,

and discussions with industry representatives. Four general criteria were used to guide the selection of activities included in the FY 1984 request. First, they should be consistent with the Federal emphasis on long-term, high-risk research. Second, the research should add measurably to the technology base. Third, the activity should have a high payoff potential.

Now let me turn to the specific programs of interest to this Subcommittee.

Federal Energy Management Program

The FY 1984 request for the Federal Energy Management Program (FEMP) is $1 million. This is roughly double the program provided by Congress in FY 1983. Funding will permit expanded efforts in Federal planning for achievement for conservation and efficiency goals, to include providing program technical guidance to other Federal agencies, conducting workshops on life cycle costing techniques and conservation through architectural design, updating and printing "how to" conservation manuals, and conducting employee awareness programs. In addition, we will continue to monitor and report program progress, cost and energy savings to the President and the Congress and to develop performance targets for existing Federal buildings. I would like to note in passing that the legislation relating to this program requires the preparation and submission of two separate reports, both in effect summarizing the status of the Federal program. We would like to consolidate these two reports, thus freeing staff time for the other activities just described.

Appliance Test Procedures

The FY 1984 budget request includes $1.7 million for continuation of the appliance test procedures program. The test procedures form the basis for manufacturer representations regarding energy consumption or the cost of energy consumed as required under the Federal Trade Commission (FTC) Appliance Labeling Program. The Department supports the continuation of this effort as a means of ensuring the proper operation of the marketplace through provision of information to the consumer. Such information, consistent across models and brands of appliances, is essential if the consumer is to make an informed purchase decision. Funding provided will permit updating of test procedures and processing of waivers from the procedures where they would produce unreliable or unrepresentative results for a particular product. Funds will also be used to meet our legislated requirement to assist FTC in conduct of a consumer education effort to heighten public awareness of the labeling program. A minimal level of funding is needed to process State petitions for exemptions from Federal standards on appliances. I would like to note here that FTC recently conducted a public meeting to obtain private sector input to the labeling process, soliciting ideas for possible improvements to the existing labels. The response was very encouraging and we commend FTC for this effort.

Regulatory Programs

In addition to the programs already mentioned, CE is responsible for three regulatory programs; appliance energy efficiency standards, building energy performance standards, and the Residential Conservation Service and

related programs. No funding is requested in FY 1984 for these programs. In the area of appliance energy efficiency standards, we issued a final rule on two products (kitchen ranges and clothes dryers) in December of last year. We expect to complete the final rule on the remaining 6 products by the end of April. Proposed and final rules on the other 4 products specified in legislation will also be completed this year. Funding requested under the appliance testing program will be adequate to handle any requests for exemptions from the Federal standards, as already indicated.

Under the Building Energy Performance Standards (BEPS) program, we are in the process of preparing voluntary guidelines for building types with the highest volume use, specifically, residential buildings, commercial buildings, and manufactured housing (mobile homes). Interim mandatory standards for application to new Federal buildings will also be prepared and issued. Funding currently available should permit the completion of all activities in this area. We will then work with other Federal agencies to identify possible sites for a demonstration in Federal buildings of each type. This will give us a basis for finalizing the standards for the Federal sector.

With regard to the Residential Conservation Service, we have final rules in place for the basic RCS program. We issued Notices of Proposed Rulemaking for the RCS Federal Standby Plan and the Commercial and Apartment Conservation Service (CACS) last November. Final rules are expected to be completed by May. A Notice of Proposed Rulemaking on a Federal Standby Plan for CACS is now planned for August. All of these rulemakings will be completed using funds available from FY 1982 and FY 1983.

The Department last year supported legislation proposed by Members of Congress to repeal the requirements for these regulatory programs. We would continue to support such legislation.

Energy Conversion and Utilization Technologies

The Energy Conversion and Utilization Technologies Program is one which involves technologies cutting across end-use sectors. We have requested $3 million in FY 1984 for this work. With this funding, we would go forward with the investigation of combustion phenomenon and make an effort to understand "knock" in engines. Another field which deserves some attention is tribology, which is the study of friction and wear. Elimination or minimization of friction can result in significant energy savings. The use of solid lubricants will be required in many high-temperature applications, such as the use of ceramics in engines.

Mileage Guides

The FY 1984 budget request includes $500 thousand for printing and distribution of the Mileage Guides. As you know, we have made some changes in the printing and distribution procedures in FY 1982 and FY 1983, in order to reduce costs associated with the Guides. The format of the Guide has been changed to make it reproducible on normal copying machines. This will permit broader use by recipients who would like to further distribute copies of the Guide. Recognizing the sizeable inventory left unused at the end of FY 1981, we have reduced inventory requirements for the Technical Information Center. Initial distribution to dealers will be made in packages of 50 copies, with reorder blanks in each box for prompt reordering where needed. TIC is currently turning around such reorder requests on the same day received. Single copies are being provided to the general public on request. When inventories at TIC draw down to the point where reprinting is needed, we will obtain from EPA the latest available data in order to update the Guide to include all models on which information is then available. This will result in an ongoing update of the Guide over the model years covered.

Industrial Energy Efficiency Reporting

The FY 1984 budget request includes $200 thousand to continue the collection, consolidation and reporting of data on improvements in energy efficiency by companies using more than 10 to the 12th power BTU annually. This information will be compiled in the form of a report to the President and the Congress. We would hope to work with industrial trade associations to transfer responsibility for this effort to them.

Since industry comprises the largest group of users for this information, it seems reasonable to allow such trade associations to handle the collection and dissemination of the information. Since each industry tends to focus on the information contained in the report for its own sector printing and distributing a single report covering all industrial sectors is unnecessary. This is the kind of effort better left to the private sector.

State and Local Assistance Programs

The FY 1984 budget request for State and local programs is $3.3 million, primarily for staff needed to handle the closeout of grants issued in prior years. We are not requesting any additional funds for the grants themselves, for reasons which I will discuss.

The Institutional Conservation Program, also known as Schools and Hospitals, was designed primarily to demonstrate the benefits of energy conservation and to stimulate energy efficiency investments by local governments and local public and non profit institutions. The program has successfully accomplished these goals and continued funding is not necessary. DOE has in the past provided technical and financial assistance to public and non profit schools, hospitals, local government and public care institutions. State and local communities have had several years of

experience in making energy conservation investments. They are now well aware of the benefits of such investments and capable of including them as appropriate in their overall operating and capital budgets. Consequently, the FY 1984 budget request contains no funding for this program. We are continuing to conduct joint public/private efforts to explore alternatives to Federal financial assistance to support energy conservation.

The Administration has not requested funds for continuation of the DOE Weatherization Program. We are very concerned about the welfare and well-being of the low-income persons in this country, but view this as a social rather than an energy issue. Therefore, the President's FY 1984 Budget Request provides Federal funds to the States for weatherizing low-income homes through the Low-Income Home Energy Assistance Program (LIHEAP), administered by the Department of Health and Human Services (HHS). Up to 15 percent of the LIHEAP funds are authorized to be allocated by States for weatherization activities. In addition, having all Federal assistance channeled through the LIHEAP program facilitates State and local governments' program planning and implementation by permitting them to provide the optimum mix of weatherization and fuel payment assistance within the limits of available resources and taking into account their unique community circumstances.

19-313 O—83——2

The Energy Extension Service was designed to promote energy conservation by direct personalized information and technical assistance to small-scale energy users such as small businesses and homeowners who individually use small amounts of energy, but, in the aggregate, use roughly 40 percent of the Nation's energy consumption. The Energy Extension Service has served to assist States in the development of conservation and renewable energy resource outreach activities aimed at addressing those energy issues specific to a given State. With clear evidence that public knowledge of the benefits of energy conservation has motivated enormous and widespread energy efficiency investments by individuals and businesses throughout the nation, the goals of this program have been accomplished and there is no longer a need for Federal assistance. To the extent that States continue to believe that public information programs of this type are desirable, the Federal assistance provided to date has been sufficient to develop their capability to continue such efforts on their own.

The State Energy Conservation Program (SECP) was designed to provide States with the means to establish and implement energy conservation programs with the goal of reducing energy consumption. This goal has been largely accomplished. States have become increasingly able to develop and implement such activities and, as with EES, there is no further need for Federal assistance.

The Energy-Related Inventions Program was established to evaluate the technical merits of energy-related inventions submitted to DOE and to issue grants to assist those which are most promising. The National Bureau of Standards (NBS) has evaluated approximately 18,600 energy-saving inventions, of which 165 have been awarded grants totaling $12.8 million. We expect that the President's Economic Recovery Program will increase the venture capital available and will stimulate R&D investments, making this program unnecessary.

Photovoltaics

The purpose of the Photovoltaic Energy Program is to enhance scientific understanding of the technology and provide a basis for the advancement of photovoltaic systems for both dispersed and centralized electric applications. Research is focused on the characterization of photovoltaic materials and concepts which show promise for improved efficiency, stability and cost.

Important advances have already been made in the photovoltaic technologies. For example, amorphous silicon now offers the potential for ultimately lowering photovoltaic cell costs at high volume production rates. During 1982, laboratory efficiencies of 10 percent were achieved with small area amorphous silicon cells, representing a significant technical advance over the conversion efficiencies previously attained. Through the program, module tests and design algorithms were formulated to simulate 20 year

lifetimes and the performance of state-of-the-art modules was tested using these techniques. The validation of these accelerated life tests and algorithms provides a basis for the testing of flat plate modules to project reliability.

During FY 1983, the effort to develop crystalline silicon PV cells will be near completion. This effort will include the operation and evaluation of a facility which has been designed to produce semiconductor grade silicon at less than one-half the cost of other methods. Band structure calculations for copper indium diselenide ($CuInSe_2$) thin film PV cells will be completed this year. Based on this research, a laboratory test cell is expected to show an efficiency of 12 percent.

For FY 1984, the Department is requesting $32.7 million to continue long range photovoltaic research. This includes $20.5 million for Materials Research, $5.7 million for Cell Theory and Validation Studies, and $6.5 million of Analysis, Testing, and Reliability Studies.

The Materials Research element will include both Thin-Film Materials and Cell Research, and High Efficiency Materials and Cell Research. Since thin film materials exhibit potential for greatly reducing cell costs, a number of promising thin film materials and deposition techniques will be characterized and investigated. High efficiency research will emphasize the definition and development of materials and cell concepts with the potential for yielding high conversion efficiencies. These activities

include conceptual designs for luminescent devices, the laboratory verification of high concentration Fresnel lens modules, and the characterization of materials for multi-layered cells which may potentially achieve efficiencies of 30 to 50 percent. All of these concepts have shown potential for developing more competitive photovoltaic systems.

In the second major area of research, Cell Theory and Validation Studies, analytical models for predicting and interpreting the performance characteristics of new materials for photovoltaic devices and techniques will be developed. The models should result in an increased scientific understanding of the theoretical framework governing the photovoltaic process and should open the door for identification of additional cell concepts. Cell reliability analyses and tests will be conducted on the conceptual designs, and on sample structures of new cells, to determine potential degradation mechanisms. The results will either confirm the validity of initial designs under consideration or suggest alternatives for future research.

Analysis, Testing and Reliability Studies will be conducted on various mechanical and electrical module configurations to better understand failure mechanisms in cells, modules and arrays. The results of these investigations will be used to determined the requirements for long lifetime designs of 20 years or more.

Wind Energy Technology

The Wind Energy Technology Program supports research on performance and lifetime characteristics of wind machines for application by the private sector and develops and validates structural and aerodynamic models to increase the overall understanding of wind as an energy resource.

Several successfully concluded activities have contributed to the establishment of a wind technology base. Small wind system research and development performed by the program has resulted in improved machines that help foster the growing small wind industry. In large wind turbine research, initial structural, aerodynamic and environmental tests were conducted at the MOD-2 three unit cluster at Goodnoe Hills in FY 1982. We believe that large scale wind turbines will eventually lower the cost of electricity in utility applications as compared to small or intermediate sized machines.

In FY 1983, the program will continue its aerodynamic and air-foil technology efforts since there is a need for more research in complex flow regimes and high angles of attack that are unique to wind turbines. To alleviate deficiencies in the wind system related aerodynamics data accumulate to date, wind tunnel and smoke flow visualization studies are being continued. Success in these research efforts should allow designers to improve performance 20 to 30 percent at certain wind speeds.

The FY 1984 budget request for Wind Energy Technology is $8.6 million. The three major areas of emphasis include $3.6 million for Aerodynamics Research, $3.5 million for Structural Dynamics Research, an $1.5 million for operation of the Small Wind Sytem Test Center at Rocky Flats.

In Aerodynamics Research, the request provides for the refinement of analytical techniques and the development of an understanding of unsteady aerodynamics, particularly the effects of atmospheric turbulence and turbine wakes. Continued development of analytic models based on analyses of experimental turbines have shown that performance, wakes, blade stall, and resulting noise are not consistent with current theory.

In the Structural Dynamics Research area, further validation of advanced structural models; acquisition of fatigue life data from Federal and commercial systems; experimental testing of laminar flow blades and advanced airfoils; and investigation of advanced system configurations will be performed for Darrieus vertical axis systems. Atmospheric fluid dynamics research will emphasize the characteristics of wind turbulence and the resulting effect on turbine aeroelastics. Current ability to predict natural frequencies and structural loads is not adequate to analyze the structural dynamics of advanced wind turbines, particularly new turbines with variable rotor speed.

The third area of emphasis is operation of Rocky Flats Small Wind System Test Center. The request provides for research testing and operation of the Center for fee-paid testing services to small turbine manufacturers, utility companies, universities, and research laboratories.

Solar Technology Transfer

The purpose of the Solar Technology Transfer program is to disseminate the results of research and development generated by solar program activities. The information is to be provided in a format that is easily understood by industrial, scientific and technical audiences.

In FY 1983, the program continues to publish important technical documents which address solar energy technologies. For example, a series of publications reporting the results of solar heating and cooling R&D over the past decade is now being prepared.

The FY 1984 request of $3.1 million includes $2.5 million for solar technical information; $0.3 million for reproduction and distribution; and $0.3 million for mandated reports.

Solar technical information will support information product planning and development, data compilation and information transfer services by the Solar Energy Research Institute. The reproduction and distribution activity will provide printing, abstracting, preparation of copies, and distribution of reports and documents. The mandated reports effort will support the compilation of publications required by law.

Mr. Chairman, this completes my remarks. We will be glad to answer any questions you may have.

Senator WEICKER. Mr. Tribble, the Department has stated that it does not need formal action to transfer programs such as low-income weatherization to HUD or HHS.

I take it your position is that you may transfer the State and local grant programs without legislation?

Mr. TRIBBLE. I don't believe that we are in a position to make this transfer—we, the Department of Energy. We have proposed that the weatherization activities be included under the HHS organization because it is primarily a program designed to relieve the financial burden on the low-income sector of society. The other programs such as the State energy conservation program, and the energy extension service, were programs which in the early days were designed to establish State energy offices and to highlight the importance of energy conservation; and to teach many people that there were opportunities in energy conservation.

We feel we have accomplished that purpose. The State energy offices are in existence. The recognition of conservation has been raised to a new height, and we feel that it is now proper for the Federal Government to phase out those programs.

Senator WEICKER. Have you made such a proposal?

Mr. TRIBBLE. Our proposal is in the form of requesting no funds for them in the fiscal year 1984 budget.

Senator WEICKER. Well now, we have a process, Mr. Secretary, that—you know, I realize the administration has little regard for it, but at least insofar as the committee and subcommittees that I serve on, we are going to have regard for it, and that is that we do not legislate appropriations bills. I am not suggesting that that is not done. Clearly it is done, but that is not the way it is supposed to be done, and if there is legislation, then that is properly in the purview of the authorizing committee. I am well aware as to how the administration has tried to use the appropriations process to achieve legislative results.

They are not going to do that. If you people want to phase this out or phase it over, either one, then I would suggest that you send up appropriate legislation to this committee. I don't see why it is necessary at this juncture to get into a long debate on this. We can, but clearly there are those that feel very strongly, not just the Senate—the States are not prepared to go ahead and take these programs over at this time, and yet still need exists for these programs.

It would be my intention, if we are all on the same wavelength, the idea is not to produce confrontations that result in stalemates. Let's have the issue out on the table. It could very well be the majority might agree with you. I would say my role is a more difficult one in the debate on the subject, considering the energy climate of today, but I know this. Sitting on the Appropriations Committee, I am going to make certain that the appropriations is not going out that way, and I would hope that we would handle this up front in the way that is called for in the constitutional process which is if you feel the time has come to end this provision, send up the matter. I assure you you will have a prompt hearing. There will be no delay on that subject at all. There will be no attempt by this Senator to in any way delay consideration of the matter either within the committee or on the floor of the Senate, but I think that

is the right way to do it on a matter of justifiable difference, differences of views, and not try to end the round by the appropriations process.

That will be my recommendation, for whatever it is worth, and I think it should be worth something. Otherwise we will continue which is fine by me actually, we will continue operating under the present law, and this isn't somebody's idea on a Saturday afternoon. This is the law, and I believe I am correct on that, am I not?

Mr. TRIBBLE. Yes, by all means; we are aware of the circumstances you are describing, and we recognize that that would be an appropriate way to handle this.

I think that it is a matter of priority. There are so many pressing issues; but we certainly will take your advice.

Senator WEICKER. Well, Mr. Secretary, that is the difference between a democracy and a totalitarian regime. It does take time I will tell you. There is no question about it, but these decisions should be arrived at according to that constitutional system. It certainly is not speedy. Nobody is going to attest to that, but there is a reason for the slowness, and there are ways I think that might be achieved in terms of speeding resolutions, so I can assure you, however, I can assure your Department and the Secretary that in terms of this matter, that if this is your concern, believe me, there won't be any time wasted at all in raising the matter and having a hearing and then let's see what the majority feels which really I think is the proper way to handle this matter.

In oversight hearings before the subcommittee last March I asked you, Mr. Secretary, to follow up on the question by Senator Percy about the DOE conservation program under different levels of appropriations. You told the subcommittee then you would start work on the project that very afternoon.

Whatever became of the report to Senator Percy on this subject?

Mr. TRIBBLE. I am not sure I understand what you are referring to. Would you please say that again?

Senator WEICKER. From last year's hearings on conservation programs:

> Senator WEICKER. Senator Percy noted that the the Appropriations Subcommittee asked you to prepare plans for conservation programs with funding three different levels—200 million, 300 million, and 400 million. Can you inform the subcommittee what progress you have made in developing these plans?
>
> Mr. TRIBBLE. Starting this afternoon, we will begin to examine all of the programs that are under my jurisdiction. We have all of them set up in what we term a management by objectives system. We look at the accomplishments that we have set forth in the long-range plan and determine the next steps along the way toward those accomplishments, and we will then rank these in order of priority so we will be able to determine what we can do in 1983 with different levels of funding.

Mr. TRIBBLE. Yes; we did that. As a matter of fact, all of the program managers were asked to come in with suggestions of any activity that they felt would be justifiable and we took all of those recommendations and went through them and did in fact rank them on a priority basis, and that is the basis of the budget submission that we have made for 1984.

We went through the recommendations with suggestions and proposals, selected those that we thought were most viable, and that is what constitutes the 1984 budget request.

Senator WEICKER. Well, would you submit for the record to the committee the list of your priorities?

Mr. TRIBBLE. Pardon?

Senator WEICKER. Would you submit to the committee for the record—you don't have to do that here—that list of priorities from which this particular budget request evolved?

Mr. TRIBBLE. Sure.

[The information requested follows:]

First priority was given to those projects or activities which would have the greatest likelihood of advancing the technology and therefore adding measureably to the technology base. Weight was also given to the potential payoff of the technology in terms of increased energy efficiency or reduced energy consumption. Lowest priority was given to projects or activities which would merely demonstrate known technologies without adding to the technology base, and to those which would duplicate or overlap efforts being undertaken by the private sector.

Senator WEICKER. Since the March 1981 report on the schools and hospitals program, GAO observed that DOE agreed with all of GAO's recommendations.

Consequently, let me ask you the status of these specific GAO recommendations as part of the budget process. DOE forecast for Congress how many institutions could benefit from energy audits and how much funding would be required to provide these audits. The current budget calls for zero funding of this program.

Does that mean you are satisfied with the current level of audit completion?

Mr. TRIBBLE. I am going to ask Dr. Chiogioji to respond.

Dr. CHIOGIOJI. Senator, we have complied with all of the provisions of that particular GAO report.

At this time, we have completed about 60 percent of all of the preliminary energy audits of all the schools and hospitals that we have. We have completed about 30 percent in the area of energy audits per se, the EA's; and in terms of the ECM's, energy conservation measures, it is more like 5 percent of the overall numbers that we have completed

Senator WEICKER. The figures which you gave the committee according to counsel last week for institutions——

Dr. CHIOGIOJI. I'm sorry. As far as schools, energy audits is 20 percent. Hospitals is 25 percent.

Senator WEICKER. Twenty-two percent and twenty percent, that is a lot different from the figures that you just cited.

Dr. CHIOGIOJI. I am talking about PEA's, preliminary audits. Those are EA's that you mention.

Senator WEICKER. PEA's?

Dr. CHIOGIOJI. Preliminary energy audits, where the people went into the schools and hospitals on a very cursory basis to audit the buildings. Those are the audits that went on prior to our actually funding any EA's and ECM's and TA's and ECM's.

Senator WEICKER. What do you intend to do with the 80 percent and 78, 80 percent of the schools and 78 percent of the hospitals, that haven't received energy audits?

Dr. CHIOGIOJI. We are looking at different measures, different means by which we can, in fact, accomplish all of this. We know that the amount of money that is required in order to get all these done is well beyond the limits of Federal Government funding, so

we have been working with other agencies, including HHS, the American Hospital Association, and various third-party financing activities, to see whether we can come up with innovative ways in which we can, in fact, get the job done without Federal intervention and with more support from the private sector.

At this point in time, we are in the middle of these assessments and so we can't tell you exactly what will happen as a result of this.

We do know, however, that the Hospital Association and the third party financing organizations seem to be very interested in this particular mode of operation, and we will be continuing to pursue these areas over the next year.

Senator WEICKER. GAO informed my staff last week that in their opinion DOE does have the flexibility to make phase 2 funds available to phase 1 audits, and I would appreciate it if you would research this for me and advise me of your opinion in the matter.

Mr. TRIBBLE. Yes, sir, we will do that.

[The information requested follows:]

Provided the appropriations legislation does not contain stipulations to the contrary, Phase 2 funds can be used for Phase 1 audits. Based on the number of States which requested that some of their Phase 1 funds be "rolled over" to Phase 2, the Department feels that States may not wish to roll over these funds. Additionally, there is some indication that, at this time, emphasis should be placed on the "how" rather than the "what" aspects of energy efficient operating and maintenace procedures. However, it may be appropriate at this time to determine the States' needs in this regard.

Senator WEICKER. Mr. Secretary, the last supplemental appropriations bill incorporated language for specific personnel levels within your jurisdiction—a total conservation staff of 352, of whom not fewer than 154 should be assigned to conservation R&D; not fewer than 180 conservation State and local grant programs, yet your budget request reflects only 278 personnel in fiscal year 1983 and 123 in fiscal year 1984.

How do you justify avoiding the statutory requirement?

Mr. TRIBBLE. We don't. The fiscal year 1983 and fiscal year 1984 employment estimates assume enactment of legislation to repeal these employment requirements. In the interim the Department plans to comply with the legislative requirements regarding personnel levels. I believe yesterday we were just four or five short, but as vacancies do occur, we are putting in personnel actions to fill the critical vacancies, and when the appropriation is finalized, we certainly expect to have adequate personnel to handle all the programs.

Senator WEICKER. Senator Hecht?

Senator HECHT. Thank you, Mr. Chairman. Mr. Secretary, you mentioned before about taking some of these Federal programs that I was getting into back to the States.

What type of funding would the States have to implement these programs?

Mr. TRIBBLE. With the weatherization program, for example, the present provision I believe is that 15 percent of the low-income home energy assistance program, can be used for weatherization activities.

In the State energy conservation program and Energy Extension Service, there is no Federal funding that could take its place, so far as I know, but the States, if they saw fit, could pick up this cost.

We did a survey last year and asked the States if they would pick up the cost of their State energy offices if we no longer funded them. The response was that about 28 of the States said they would not. Only two responded positively, that they would, and the others were "maybe" or at a lower level. This indicated to us that this program is not very high in the priority of expenditures in the States, and this to us lends some support for our proposal that we not continue to fund it.

Senator HECHT. That could be taken two different ways. For instance, our State, Nevada, is very hard pressed for money right now, like a lot of States. Certainly some of the local issues would have more substantive value.

Could I have a list of these different programs which you propose to take back to the States and an explanation, please, so I can acquaint myself better with this?

Mr. TRIBBLE. These programs are then State conservation planning program and the Energy Extension Service.

Senator HECHT. Thank you very much; no further questions.

Senator WEICKER. Thank you very much, Senator. I notice in your statement, Mr. Secretary, you point as a source of satisfaction to the fact that there are 300 million barrels of oil in the strategic petroleum reserve.

Now my question simply is what is required by the laws now written as to the fill rate? What is required?

Mr. TRIBBLE. Mr. Chairman, that is not at all in my purview, and I'm sorry to say I don't know.

Senator WEICKER. The reason why I raise the point is that I include SPR as really part of our national conservation effort, and it is my understanding that what the law requires is 300,000 barrels a day in the absence of a Presidential finding that it would hurt the economy. That finding has been made, so the figure we are talking about is 220,000 barrels a day, but the request from the administration in this budget is no more than 146.

I believe the committee has taken the position, has it not, it should be at the law, what the law requires, which is 220,000? I would hope that that would be the case because in your statement, as in mine, we both recognize the fact that we might just have a little respite here, but chances are the struggle is going to continue. I would say the odds are about 99 percent. What better time to go ahead and fill it? I don't know pricewise or availabilitywise. I certainly hope that does become the position of the Department.

There is one more question. There are other questions which will be submitted for response to the record.

Some 24 States prohibit the use of the State funds in sectarian institutions. If the schools and hospitals program were block granted, such sectarian institutions would lose access to this form of funding for energy conservation, wouldn't they?

If that is the case, how do you expect to deal with this unintended result?

Dr. CHIOGIOJI. We will have to research that, Senator Weicker, because I really don't know what the answer to that particular question is.

Senator WEICKER. All right. I would appreciate a response on that.

Dr. CHIOGIOJI. Yes, sir.

[The information requested follows:]

Many States prohibit the use of State funds for sectarian institutions. However, it is possible that in may instances the prohibitions are worded in such a manner that States could, if they so chose, make a determination that the block grant funds, as Federal funds, are not subject to restrictions in their State constitutions.

Senator WEICKER. Then lastly, the original regulations were issued for the residential conservation service program in November of 1979. Your administration of DOE withdrew them for proposed revisions in November 1981. They issued revised regulations in June of 1982. There are still three States with no RCS plan whatsoever, and therefore under the existing law they are subject to imposition of a Federal standby plan.

In addition, there are eight States whose proposed plan has been rejected by DOE. You propose zero funds for the RCS program for fiscal year 1984. How can you fulfill the requirements of law without providing the funds?

Mr. TRIBBLE. We have made substantial efforts to get those States that have not submitted a plan to do so, but we have nevertheless gone forward with a Federal standby plan on a preliminary basis, and we expect to go forward, after the appropriate comment period and consideration of the comments that we get, with a final Federal standby plan.

We are aware that some of the States have been very emphatic in saying that they were not going to come forth with the plan.

Senator WEICKER. Well, Mr. Secretary, I suggest that we had better darn well see to it that the law is lived up to because if we don't, and in the outyears we run into a situation similar to what we have been through in the past decade, we have similar requirements for a plan to be issued by the State, nobody is going to pay any attention and figure it will blow over, we will wait out the Federal Government and that will be the end of it.

I think it is especially crucial that with those 3 States and indeed the 8 others that have been rejected, that they do what the other 39 States have done. Otherwise nobody is going to pay any attention to any future laws that are passed in this regard.

Now I would appreciate getting a figure from you as to what is required at the minimum, what is required in the way of funding to see to it that we follow through on this facet of the law. Maybe it is we are going to drop this program, but I don't think we want to establish a principle around here that in effect any one State can wait out Uncle Sam. That would be a bad piece of precedent to have hanging around our necks, and I have no doubt we will be dealing with this problem before long anyway.

Mr. Secretary, I thank you for your testimony, and as I said, I and other Senators I am sure will have questions to submit for response to the record, and I appreciate it.

Mr. TRIBBLE. We will be pleased to respond. Thank you, Mr. Chairman.

Senator WEICKER. The next witness is Mr. J. Erich Evered, Administrator of the Energy Information Administration, Department of Energy. Mr. Evered?

[Mr. Evered was not present in the hearing room, his prepared statement follows:]

Statement of J. Erich Evered
Administrator, Energy Information Administration
Department of Energy
Before the
Senate Committee on Energy and Natural Resources
Subcommittee on Energy Conservation and Supply
March 8, 1983

Mr. Chairman, members of the Committee, I am pleased to be here today to present the proposed Fiscal Year 1984 budget for the Energy Information Administration (EIA). This request is for $50.8 million. The purpose of my testimony today is to set forth those goals and objectives that can be accomplished by EIA during Fiscal Year 1984 within the context of this budget request.

EIA's mission is to produce and provide useful, objective energy information to the Executive Branch, Congress, State governments, industry, and the public so that those who make decisions about energy in all sectors of society have the tools to make those decisions well. In order to accomplish this, EIA collects, processes, and interprets energy data and exercises independent judgment in the gathering, analysis, and dissemination of information. In support of this mission, EIA plans to remain the pre-eminent source of national energy statistics and objective energy analysis, providing the reference standard for energy information.

The FY 1984 budget of $50.8 million reflects continuation of most basic energy information programs and activities that were conducted during FY 1983. This budget request, like the 1983 budget request, assumes passage of legislation, similar to the "Energy Information Administration Amendments of 1981," to eliminate certain statutory requirements. Therefore, EIA is not requesting funds to carry out those activities that would be eliminated if legislation similar to the "Energy Information Administration Amendments of 1981" is passed.

This budget also reflects the transfer to the Federal Energy Regulatory Commission (FERC) budget of the request for resources to perform information support activities in support of FERC's mission. In FY 1984 these activities are estimated to cost $6 million, the same amount as 1983. EIA will conduct these activities upon receipt of reimbursement from FERC. The full amount of these funds are needed to maintain the fixed cost of operating the automated data processing (ADP) facility and multi-purpose surveys, in fulfillment of EIA's multi-faceted mission.

1983 Objectives and Accomplishments

Before I discuss the specific provisions of the 1984 budget, I would like to spend a few minutes highlighting the details of EIA's objectives and accomplishments during FY 1983. There are several key areas that contribute to the accomplishment of EIA's mission: systems, products, burden, quality, resources, and access. These fit together in the overall operations of the National Energy Information System--that is, all EIA's integrated data bases and library of information. Data and modeling systems are used to produce standard and custom ordered energy information products--statistical, forecasting, and analysis reports, data tapes, and other information about energy supply, demand, and related social and economic issues. EIA conducts energy information

19-313 O—83——3

programs in the areas of oil, gas, coal, nuclear, electric power, alternative sources, energy markets, and consumption. Data collections to support data systems in these areas impose a public reporting burden. EIA uses staff, contractor, and computer resources to operate its systems, and to produce its products. The quality of those systems and products can be assured through quality control mechanisms that have been put in place in past years, through quality assessment and validation, and capital investment in quality improvement. I will elaborate on this latter point more thoroughly in my discussion of the 1984 budget. Finally, EIA answers inquiries and provides access to standard energy information through selling and distributing its products.

During the past two years we have reduced the resources required for accomplishing these objectives from $104 million in 1981 to $56.4 million in 1983. Many activities have been reduced; some have been eliminated altogether. We are now operating much more efficiently, while continuing to provide the basic energy statistics that comprise the National Energy Information System.

We have completed the bulk of the consolidation and streamlining of our publications which was begun two years ago. This consolidation and redesign effort has enabled us to reduce costs, to improve the timely presentation of statistical series, and to make it easier for users to find the information they need.

Major consolidation efforts include:

- Electric Power Annual, replacing 2 previous annuals;
- Petroleum Supply Annual, replacing 4 previous annuals;
- Petroleum Supply Monthly, replacing 4 previous monthlies;
- International Energy Annual, replacing 3 previous annuals;
- Natural Gas Monthly, replacing 3 previous annuals;
- Various coal and coke reports, 4 reports replacing 10 previous reports.

We have also accelerated the production schedule of the Petroleum Supply Monthly by over a month, putting the publication in the hands of the subscribers approximately 2 months after the end of the month of reference. The schedules for all publications are being accelerated through the use of computer generated tables and graphs and the application of the latest available automated composition techniques.

We successfully initiated the redesign of the petroleum marketing information system to convert largely regulatory data collections to more efficient, less costly, and less burdensome statistical collections. The new system became operational last month with the first full collection cycle using the new form and systems. This completes the effort we undertook two years ago when we first anticipated the impact of the decontrol of petroleum products on our information systems. After two years of requirements reviews, public hearings, and workshops, we have developed a product that satisfies the information requirements of data users, while significantly reducing the burden on respondents.

We have significantly reduced reporting burden by 35 percent from the 1980 base burden during this time period, reflecting a total 2 year reduction of 6.2 million person-hours of reporting burden, far exceeding the goals mandated by the Paperwork Reduction Act.

The paperwork review and burden reduction efforts that we have undertaken are implemented in several ways. We are particularly proud of the work done to consolidate multiple data needs in the form EIA-767, "Steam-Electric Plant Air and Water Quality Control Data." This survey is the first multi-agency sponsored form approved by the Office of Management and Budget under the Paperwork Reduction Act, and supports three Department of Energy (DOE) components, the Environmental Protection Agency, and the Commerce Department's Bureau of Economic Analysis. Its design is a result of the concentrated effort to balance individual information requirements with respondent capabilities.

We have published a series of 10 one-time energy consumption reports based upon surveys of the residential, residential transportation, non-residential buildings and industrial sectors. As you are aware, the consumption program produces the only comprehensive information that is available anywhere on energy demand.

We have also accelerated the development of a simplified, efficient modeling system to produce integrated, multi-fuel forecasts through the end of the decade. This system will in part replace the resource-intensive models that were previously used to produce mid-term forecasts. We have both improved and streamlined our short-term forecasting efforts, so that the quarterly Short-Term Energy Outlook is now available to the public approximately one month earlier.

We have undertaken a series of analytical reports concentrating on aspects of the natural gas industry and markets which may be significantly impacted by the scheduled partial deregulation of natural gas under the Natural Gas Policy Act of 1978 (NGPA). The series of studies is entitled "An Analysis of the Natural Gas Policy Act and Several Alternatives." Part I provided a wide variety of information on the current state of the natural gas market. Part II presented the results of a survey of producer/purchaser contract terms providing information on pricing provisions, price escalation clauses and take-or-pay provisions. Part III analyzed the Purchased Gas Adjustment filings (PGA) over recent years of twenty major interstate pipelines. Ongoing studies are currently underway analyzing the Natural Gas Policy Act and selected alternatives to current law. We prepared a series of analyses and presented testimony on the domestic uranium industry for the Senate Energy Research and Development subcommittee. We have also issued timely analyses on several issues facing the electric utility industry.

During this time period we have responded to increasing inquiries from the public for energy information and have improved public access to our information through the development of public use computer tapes. We recently became a direct Government Printing Office sales agent, and are now recovering publication costs from most non-Government users. We also completed the development of a Data Resources Directory, an automated data base containing a

comprehensive single source inventory and description of individual data elements, data collection forms, survey frame information, definitions of energy terms, and publications.

All of this has been possible largely because EIA is fortunate to have a dedicated, highly motivated professional staff. Attrition appears to be leveling off, and I believe that we have achieved institutional stability. While we have lost some key people, we are now actively recruiting to replace them.

1984 Objectives

During FY 1984, EIA plans to continue to produce and distribute the EIA family of energy information products on schedule. We will continue to operate basic "core" data collection programs and to perform planned timely analyses of relevant energy issues. We will continue to manage the forms clearance process for the entire Department and we will also continue to produce the Department's Information Collection Budget. We will provide basic support to the FERC on a reimbursable basis, and will provide the Executive Branch, Congress, State governments, industry, and the public access to the National Energy Information System, and respond to requests from the White House, Congress, and other Federal agencies for special reports. We will continue to manage EIA programs efficiently, with a minimum of overhead. If legislation similar to the "Energy Information Administration Amendments of 1981" is enacted, we will be able to provide a greater degree of confidentiality for business-submitted information needed for statistical purposes, which will make our operation more efficient, and will reduce respondent burden by allowing EIA to have greater access to other statistical agencies' data.

In order to give you a complete understanding of EIA's request, I want to mention two items for which we are not requesting funds, along with the reasons for these reductions or eliminations.

First, in 1983 EIA specifically and conspicuously did not request funds to conduct the Financial Reporting System and mid- and long-term analysis. Sufficient funds for all EIA mandates were not appropriated. EIA is again not requesting funds for these activities in 1984.

Congress did, however, appropriate additional funds to conduct certain consumption data surveys in FY 1983. EIA is not requesting funds for consumption survey activities in FY 1984. There is no doubt that the information generated by the consumption data surveys is among the most useful that EIA produces. In fact, for some sectors this program is about the only source of information on energy end use and expenditures that exists anywhere, inside government or in the private sector.

While no funds for survey activities are requested, EIA does not intend to discontinue the consumption program in FY 1984 by any means. The funds appropriated in FY 1983 will be used to generate a great deal of data which will become available for analysis in FY 1984. EIA will produce a number of interpretive reports during FY 1984 which will examine trends in the area of consumption of energy. There is sufficient money in the FY 1984 budget for this

type of activity, but not for a repeat of surveys similar to those conducted with funds appropriated in FY 1983. It is my professional judgment that the consumption of energy in the residential sector and the commercial buildings sector in this country does not change significantly enough in 12 months to warrant the continuation of this level of survey activity every year. I believe that by FY 1985 or 1986, however, it would be appropriate to examine these areas once again.

The last issue I want to bring to your attention is that of the quality of EIA's information products. As you know from the budget, EIA is deferring a formal request for quality maintenance investment projects for the second year in a row. While some ongoing quality control and assessment activities will enable us to maintain some minimal level of quality, the capital investments in quality maintenance will not take place. The immediate concern is the impact that this deferral will have on the quality of EIA's data and analyses. I want to be straightforward about this matter. At this resource level, I cannot guarantee that EIA's information products will be of the same quality that EIA has produced in the past. But it is my belief that the taxpayers cannot afford this expenditure at this time. There is a competition for extremely scarce resources, and national priorities must be respected.

EIA will defer these activities for the second year, because I believe it to be in the national interest. It seems reasonable to hold EIA to a constant level in 1984, consistent with the freeze elsewhere in the President's budget. Therefore, I am recommending that the Congress not add funds for this purpose to EIA's 1984 budget. I am simply stating that other considerations of greater national priority make this action justifiable.

It is my judgment that this request will enable EIA to continue to accomplish its basic mission in FY 1984, and I hope you will give it favorable consideration.

I will be happy to answer any questions you may have.

Senator WEICKER. The committee will stand adjourned.
[Whereupon, at 9 a.m., the hearing was adjourned.]

APPENDIX

RESPONSES TO ADDITIONAL COMMITTEE QUESTIONS

Department of Energy
Washington, D.C. 20585

April 6, 1983

Honorable Lowell P. Weicker, Jr.
Chairman, Subcommittee on Energy
Conservation and Supply
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On March 8, 1983, Secretary Joseph Tribble appeared before the Subcommittee on Energy Conservation and Supply of the Committee on Energy and Natural Resources, for an oversight hearing on the budget for Energy Conservation and Related Programs.

Following the hearing you submitted questions to be answered for the record. Enclosed are the responses to those questions. A copy has been provided to the Committee for the record.

If you have any questions, please call Ingrid Nelson or Tom Pretorius of my staff on 252-4277. They will be happy to assist you.

Sincerely,

Thomas H. Pretorius
for Robert G. Rabben
Assistant General Counsel
for Legislation

Enclosure

bc: Mr. Al Astrin
Committee Staff

Question 1. Is the Department of Energy planning to send to Congress proposed deferrals or rescissions of money appropriated for conservation and renewable energy programs? If so, what are the dollar amounts and when will this package be presented? Also, why is the Department planning to do this when the Appropriations Committee has given clear directions to do otherwise?

Answer: By letter of March 31, 1983, the Secretary notified committee chairmen of several planned deferrals in the conservation and renewable energy programs. Specific activities addressed in this letter included the following projects and amounts:

Parabolic dish (second community demonstration)	$ 3.0 million
Salton Sea solar pond project	2.0 million
Consumer products	3.0 million
National Appropriate Technology Assistance Service	1.5 million

These amounts, constituting less than two percent of the total amounts appropriated for conservation and renewable energy programs, cover activities which either duplicate private sector efforts or which are deemed very low in priority for Federal subsidy.

Appliance Standards

Question 2. What is the current status of the lawsuit brought against the Department by NRDC concerning appliance efficiency standards?

Answer: The Department entered into a settlement agreement with the Natural Resources Defense Council and Consumers Union on February 15, 1983 regarding their lawsuit with DOE. In this agreement, the Department agreed to issue the final rule regarding energy efficiency standards for six types of appliances by April 30, 1983.

Question : (a) How many homes have been weatherized with Federal funds in FY 1983 and how many are expected to be weatherized in FY 1984?

Answer: DOE has weatherized 55,000 homes from October 1, 1982 through December 31, 1982 using FY 1982 funds. Production figures for January and February 1983 are not yet available. However, the FY 1983 budget period for weatherization begins April 1, 1983 and ends March 31, 1984. During this period DOE expects to weatherize approximately 150,000 homes. The Department has requested $0 funding for weatherization activities for FY 1984.

Question : (b) What is the rate of requests at the local/state level for weatherization services?

Answer: No statistics are kept on the rate of requests for weatherization services. However, DOE has weatherized approximately 1,000,000 of the more than 14 million eligible homes.

Question : How many people were employed in the weatherization program in FY 1983 and how many people do you expect will be employed in FY 1984?

Answer: In FY 1983 approximately 7,400 people are employed in the weatherization program. This estimate is based on a study completed by Oak Ridge Associated Universities that found that a $100 million expenditure would produce 3,600 direct jobs (at the subgrantee level) and 1,600 jobs in supporting industries. It is anticipated that the same amount will be employed through March 31, 1984, the end of the FY 1983 budget period. The Department has requested $0 funding for FY 1984.

Question 4. Does the Department expect to publish a report on the activities of the State and local grant programs this year?

Answer: The Department of Energy has the resources and is prepared to respond to any requests for information regarding FY 1982 activities of the State and Local Assistance Programs. However, the Department does not plan to publish a report on 1982 activities.

Question 5. How many staff people do you propose to have to work the State and Local Programs? Are they supposed to close out these programs in FY 1984?

Answer: A staffing level of 65 FTE has been requested for the State and Local Assistance Programs in FY 1984. Of these positions, 15 will be assigned to the Headquarters to provide overall management, administrative support and general guidance. The remaining 50 positions will be located in field offices to provide administrative oversight of uncosted obligations, monitoring of individual grants awarded late in FY 1983, and to perform those activities necessary to close out the programs in FY 1984.

Question 6. Will you please indicate the current level of support (dollars) for private funding that is available for energy conservation research and development?

Answer: The Department does not collect routinely data from the private sector which would identify its research activities. The Department will conduct an inquiry to attempt to determine the current level of conservation R&D by the private sector, including examination of data collection efforts by the National Science Foundation.

Q. What is the status of the Energy Emergency Contingency Plan, and what are the States currently doing to develop the plan?

A. If you are referring to the provision of the Emergency Energy Conservation Act of 1979 (EECA) which calls upon the States to develop State Emergency Conservation Plans for application during an energy shortage, the Administration believes that a policy of marketplace adjustments can far more efficfently guarantee the allocation of energy supplies during a shortage than can allocation and price controls, or the mandatory conservation measures envisioned by EECA. As you know, Title II, Part A of that Act would permit the President to levy mandatory conservation targets on the States in the event of an energy shortage. The States would then be required to submit State plans containing mandatory conservation measures designed to meet those targets to DOE for approval, and would then be required to impose them. Under certain circumstances, the President is even empowered by EECA to impose Federal mandatory measures within States which fail to meet their conservation targets.

The EECA also required the Federal Government to issue a Standby Federal Emergency Energy Conservation Plan containing measures which the Federal Government might impose upon the States. It did so on February 7, 1980. After a series of

public hearings and considerable public opposition, the Federal Plan was revised on February 23, 1981, to include only a public information measure and a minimum fuel purchases measure. The Government was and is convinced that, if implemented, the Federal measures would have interfered excessively in the lives and businesses of many individuals, and would impose costs far in excess of their benefits. Further, they would require the President to implement a complex regulatory response involving centralized direction and possibly centralized control over energy consumption at the State and local levels.

In FY 1981, over $1.65 million were provided to 57 States and other eligible jurisdictions to begin the process of developing State plans, and DOE has continued to encourage the States to pursue contingency planning through technical assistance and consultation, the dissemination of information, conferences with the National Governors Association, and national conferences which examine the roles of the Federal, State, local, and private sectors arranged under a DOE grant by the Georgetown University Center for Strategic and International Studies. A number of States are pursuing their planning responsibilities, and some (e.g., California and Maine) have provided copies of their energy emergency contingency plans to DOE for comment.[1]

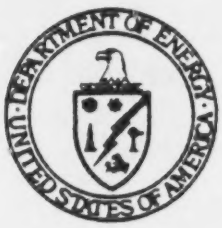
---

[1] See attached survey by American Petroleum Institute of State activities conducted in April 1982.

Finally, it should be noted that since enactment of EECA the United States has not experienced an energy shortage sufficient to warrant the use of EECA Title II authorities. No mandatory conservation targets have been imposed on the States, no Federal or State mandatory conservation measures have been applied, and no energy savings among the States have been realized as a direct result of EECA-imposed initiatives. In light of the Administration's commitment to an energy preparedness policy of primary reliance on the free market, noninterference in State responsibilities for developing and implementing responses to local energy emergencies, and the repeal of Federal price and allocation controls on crude oil and petroleum products in January 1981, the Administration recommended in its Annual Report on EECA (dated November 24, 1982, and transmitted by the President to Congress on December 7, 1982) that Title II, Part A of the Act be permitted to expire by its terms on July 1, 1983.

EMERGENCY ENERGY CONSERVATION ACT OF 1979
(TITLE II, PART A)

ANNUAL REPORT TO THE CONGRESS



THE SECRETARY
U.S. DEPARTMENT OF ENERGY

NOVEMBER 24, 1982

19-313 O—83——4

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release December 7, 1982

The President today is transmitting to the Congress the annual report covering efforts of the Department of Energy to implement provisions of the Emergency Energy Conservation Act since its enactment on November 5, 1979.

###

EMERGENCY ENERGY CONSERVATION ACT
(TITLE II, PART A)

ANNUAL REPORT

I. EXECUTIVE SUMMARY

The Emergency Energy Conservation Act (EECA, the Act) was enacted into law on November 5, 1979, (Pub. L. 96-102, 42 U.S.C. 8501). Section 215(b) of the Act requires the President to report to the Congress with regard to activities undertaken pursuant to Title II, Part A, of the Act. Section 215(b) reads as follows:

> The President shall report annually to the Congress on any activities undertaken pursuant to this part and include in such report his estimate of the energy saved in each State and the performance of such State in relation to this part. Such report shall contain such recommendations as the President considers appropriate.

Title II, Part A, of EECA, which is the subject of this report, authorizes the President to set mandatory energy conservation targets for each State upon a finding that an actual or potential energy shortage exists in any energy source. Individual States must then submit energy conservation plans to the Department of Energy (DOE) to meet the conservation targets. If the President finds the resulting State plan is not effective in meeting the conservation target, he may, under certain circumstances, impose a Federal mandatory plan for use in that State.

Since the enactment of EECA, the United States has not experienced an energy supply shortage of sufficient severity to warrant the use of EECA Title II authorities. No mandatory conservation targets have been imposed upon the States, no Federal or State demand restraint measures have been imposed, and, consequently, no energy savings among the States have been generated as the direct result of EECA-imposed initiatives.

If used in an emergency, EECA would require the President to implement a complex regulatory response involving centralized direction and possibly centralized control over energy consumption at the State and local level. In light of the Administration's commitment to an energy emergency preparedness policy of primary reliance on the market, unfettered by counterproductive Government controls and excessive Federal involvement, the Administration recommends that Title II, Part A of EECA be permitted to expire by its terms on July 1, 1983.

II. BACKGROUND

The enactment of EECA in 1979 followed closely on the heels of the revolution in Iran and the seizure of the American Embassy, events which raised the specter of imminent petroleum shortages.

Following the enactment of EECA, the previous Administration moved to implement the programs envisioned by EECA. State Governors were summoned to the White House and alerted to the objectives and potential application of EECA, "voluntary State gasoline targets" were imposed, the DOE published the Standby Federal Emergency Energy Conservation Plan in the Federal Register, Federal funding programs were initiated to aid the States in developing State Emergency Conservation Plans, and a new Office of Emergency Conservation Programs (OECP) was established in DOE.

Such actions reflected the conventional wisdom of the 1970's which often characterized the "energy problem" as some variant of "market failure." As was true of EECA, Federal approaches during the 1970's toward solving these problems focused on market interventions through legislation, regulations, and budget initiatives. The result was a further set of constraints on the efficient operation of energy markets already overloaded with impediments.

The turbulent decade of the 1970's served to reteach many of the lessons of the marketplace, and current policies and programs have made great headway in assuring a reasoned and rational policy whose principal premise protects and utilizes the strengths of a free market.

III. VOLUNTARY STATE GASOLINE TARGETS

Section 211(a) of the Act authorizes the President to establish mandatory energy conservation targets for each State in the event or imminence of a severe energy supply shortage. It states:

> Whenever the President finds, with respect to any energy source for which the President determines a severe energy supply interruption exists or is imminent or that actions to restrain domestic energy demand are required in order to fulfill the obligations of the United States under the international energy program, the President, in

furtherance of the purposes of this title, may establish monthly emergency conservation targets for any such energy source for the Nation generally and for each State.

Although the energy situation during the winter of 1979-1980 was not so serious as to warrant a Presidential finding that a "severe energy supply interruption" existed or was imminent, the previous Administration decided to test the provisions of EECA by establishing voluntary conservation targets for the States. Accordingly, in December 1979 the Secretary of Energy announced the imposition of "voluntary gasoline conservation targets" for the States. The stated purpose of the program was threefold:

(1) To sensitize energy consumers to the need to conserve gasoline resources and forestall any energy shortages of emergency proportions;

(2) To begin the development and implementation of consumption monitoring and target-setting methodologies which would be critical to any levying of mandatory conservation targets in a genuine emergency; and

(3) To spur the development of State emergency conservation plans through Federal-State communication, and the exchange of target-setting data and technical information.

The voluntary gasoline targets program produced a number of operational problems for both the States and the Department of Energy. For example:

-- The methodology for establishing individual State targets was a complicated one. It included such factors as State consumption for the 12-month period prior to the targets (though some States which had taken steps during that period to conserve energy found this inequitable); a "rate of energy growth in fuel use" for the preceding 36 months; and further adjustments to account for past conservation efforts.

-- The data used to calculate the targets came from a variety of sources, such as State gasoline sales tax data and Federal Highway Administration data. In many cases the accuracy and timeliness of such data was called into question, or rejected by some States for target-setting purposes.

Because of the confusion and uncertainties surrounding imposition of the voluntary targets, the DOE made an effort to meet with representatives from each State to negotiate acceptable data refinements and target levels. However, DOE was not always able to reach an agreement with State representatives.

Following a year of experience with the voluntary gasoline targets program, it was discontinued on December 31, 1980.

IV. STANDBY FEDERAL EMERGENCY ENERGY CONSERVATION PLAN

Section 213(a) of the Act required DOE to establish a Standby Federal Emergency Energy Conservation Plan ("Federal Plan") within 90 days after the date of enactment. DOE published the Federal Plan in the Federal Register on February 7, 1980 (45 FR 8462).

The Plan contained seven interim final measures which, under carefully prescribed circumstances, could be imposed by the President within a State which had failed to meet a mandatory conservation target levied under EECA. These included measures dealing with public information, minimum automobile fuel purchases, odd-even fuel purchases, employer-based commuter and travel measures, speed limit restrictions, and building temperature restrictions.

Four measures were published as proposed rules. These included measures dealing with compressed work weeks, vehicle use restrictions, restrictions on the use of recreational watercraft, and subsidies to support employee commuter programs.

Extensive written and oral comments on the Federal Plan were received as a consequence of the public comment period and public hearings held in eight cities across the country. Most of the comments centered on the recreational watercraft restrictions proposal, and it was withdrawn in the Federal Register on May 21, 1980 (45 FR 34015). Many individuals and business representatives expressed the view that several of the measures, if implemented, would interfere excessively in their lives and businesses, were unnecessary restrictions, and would impose costs far in excess of their benefits. Other comments often indicated that energy emergencies could better be remedied by the workings of an unregulated free market.

On January 28, 1981, this Administration removed all remaining Federal price and allocation controls on U.S. crude oil and petroleum products (46 FR 9909). This action

was the first step toward effectuating the Administation's policy that the free market, unfettered by counterproductive Government controls, can more effectively allocate and influence the use of scarce energy supplies in the event of an energy supply disruption. Reliance on market mechanisms is stimulating increased domestic production of petroleum and petroleum products, and the more efficient use of energy supplies.

Against this background, DOE concluded that most of the Federal Plan measures if implemented, would impose unnecessary burdens and restrictions on the public and businesses, would be inconsistent with the Administration's commitment to an unregulated energy market, and may well prove counterproductive since implementation costs would likely outweigh the benefits resulting from such measures. DOE published its intention to withdraw all but the minimum automobile fuel purchase measure and the public information measure on February 23, 1981 (46 FR 13517).

In response to favorable public comment, the Federal Plan was amended as proposed on January 25, 1982 (45 FR 5688). DOE also considered a draft economic and regulatory analysis of the Federal Plan, prepared by the Argonne National Laboratory for DOE, which cast serious doubt on the benefits of several of the measures, underscored the economic and social disruptions they might cause, highlighted the impracticalities and high costs of implementation and enforcement, and tended to substantiate the uncertain character of the savings which might be expected from the measures.

V. STATE PLANNING ACTIVITIES UNDER EECA

Section 212(a) of the Act requires that "(N)ot later than 45 days after the date of the publication of an energy conservation target for a State . . . the Governor of that State shall submit to the Secretary (of Energy) a State emergency conservation plan designed to meet or exceed the emergency conservation target in effect for that State. . . ." Because no mandatory conservation targets were set for the States as the consequence of a formal Presidential finding that a severe energy supply interruption existed or was imminent, this provision of the Act has never been exercised.

Section 212(a)(2) of the Act also provides that "each State is encouraged to submit to the Secretary a State emergency conservation plan as soon as possible after the date of the enactment of this Act and in advance of such publication of any such target. The Secretary may tentatively approve such a plan. . . ."

To encourage the States to pursue the development of State plans, the previous Administration supplied financial assistance to the States in Fiscal Year 1980, when 36 States reprogrammed approximately $1.5 million in State Energy Conservation Program (SECP) funds to begin EECA planning efforts. Such reprogrammings were supported by DOE as a ready source of financial aid. In Fiscal Year 1981, DOE provided $1.65 million to 57 States and other eligible jurisdictions to develop "State EECA Management Plans." The management plans were to describe the process by which the States intended to pursue the development of State emergency conservation plans, and were to afford some indication of what planning was already underway and what types of demand-reduction measures were available or contemplated. All eligible jurisdictions submitted management plans to DOE.

State and local governments are in the best position to determine what energy emergency plans are needed and how best to meet the needs of those jurisdictions. Through innovative approaches a number of States have demonstrated the active leadership role States can play. The DOE has provided support for State contingency planning efforts under the revised Standby Federal Plan through programs of technical assistance and consultation. These include the dissemination of planning-related studies, such as those produced by the Argonne National Laboratory, "Roundtable Conferences" with the National Governors' Association on energy matters, and national conferences that examine the roles of the Federal, State, local, and private sectors in emergency preparedness sponsored by the Georgetown University Center for Strategic and International Studies under a DOE grant.

In addition, DOE has developed a draft emergency public information plan which has been widely disseminated among and supported by State and local governments and private sector organizations. This plan is designed to improve the availability of accurate and timely information for decisionmakers, producers, and consumers. Planning activities such as these can be helpful because they will lead to greater public understanding of the need for energy emergency preparedness before a crisis occurs and provide for effective communications during a crisis.

VI. CONCLUSION

Restoring America's energy security has been a top priority since this Administration assumed office, and we have made dramatic gains in implementing our policy of

limiting Federal intervention to actions that will improve, not substitute for or militate against, the efficiency of the marketplace. In particular, removal of the remaining regulations on the price, production, and distribution of crude oil and petroleum products has resulted in increased oil production, after years of decline, increased efficiency of use of all energy, especially oil, and proper incentives for suppliers and consumers to take steps to ensure themselves against disruptions in oil supplies. In addition, we have built up our Strategic Petroleum Reserve at an impressive rate. During the four years of the previous Administration, oil was added to the Reserve at a rate of 75,000 barrels per day. Thus far during this Administration, oil has been added at a rate of about 270,000 barrels per day. Of the 285 million barrels now in the Reserve, 173 million barrels (61 percent) were added during this Administration. These 285 million barrels are sufficient to provide over 300 days of complete replacement of Arab OPEC imports, based on import rates during the first six months of this year. This is more than seven times the protection our Nation had at the end of 1980.

Analyses of previous disruptions of normal oil supply show that imposing elaborate systems of controls only drives the social and economic costs higher. While there will be difficult adjustment problems during a severe supply disruption, an unencumbered market will work more smoothly, with greater efficiency, and ultimately more fairly than the complex, Government-managed systems of mandatory conservation contemplated by the Emergency Energy Conservation Act of 1979. For these reasons, the Administration will not seek to extend Title II, Part A of the Act when it expires July 1, 1983.

Numerous Federal Agencies, the States, and the public must all work together to make emergency policies effective in practice. The Administration intends to continue working closely with the States to ensure that Federal and State plans mesh, instead of moving at cross-purposes to one another.

Special Report

STATE EMERGENCY ENERGY CONTINGENCY PLANS

State Relations Department

UPDATED APRIL 15, 1982

American Petroleum Institute
2101 L Street, Northwest
Washington, D. C. 20037
202-457-7318

Betty Anthony
Federal Agencies Department

American Petroleum Institute
2101 L Street, Northwest
Washington, D.C. 20037

STATE EMERGENCY ENERGY CONTINGENCY PLANS

The following report, "State Emergency Energy Contingency Plans" is an update of a May 1981 Special Report by the API State Relations Department on the powers of state government to react to energy emergencies. Another report, "State Energy Emergency Statutes," is available and concentrates on the statutory authority of the states to respond to energy shortages

This report provides information on current efforts at the state level to develop energy emergency contingency plans. It does not review any of the 50 emergency energy management plans which describe the process to be used to develop the actual contingency plan. The report does review 28 state contingency plans currently in working draft or final form. It must be noted that all of the plans examined within this report were written prior to decontrol. It can be anticipated that the states will review and revise their contingency plans in accordance with whatever actions the federal government takes with regard to the energy emergency issues and the federal role. Therefore, it is important to recognize that state energy emergency contingency plans may well be in a state of constant flux until the federal role is identified. Individuals who wish to obtain the most up-to-date information on state energy emergency plans should contact the state directly as these powers are changing continually.

The information in this report was gathered and provided to the API by the Highway Users' Federation (Mr. Tom Farkas) and the Motor Vehicle Manufacturers' Association (Mrs. Mary Jones). Additionally, the State Petroleum Councils of the American Petroleum Institute; representatives of the Rocky Mountain Oil and Gas Association, the Mid-Continent Oil Gas Association, and the Western Oil and Gas Association provided input to this study.

STATE EMERGENCY ENERGY CONTINGENCY PLANS

PAGE

INTRODUCTION 1

SUMMARY 3

EMERGENCY ENERGY PLANS

A. Plan Information 7
B. Energy Emergency Definition 8
C. Energy Emergency Management 9
D. Information Program 10
E. Emergency Measures 12
F. Enforcement 23

LIST OF STATE PLANS 24

SUMMARY OF STATE EMERGENCY ENERGY CONTINGENCY PLANS (MATRICES) 26

STATE EMERGENCY ENERGY CONTINGENCY PLANS

INTRODUCTION

The development of Emergency Energy Contingency Plans at the state level was prompted by the passage of the Emergency Energy Conservation Act of 1979 (EECA). The Act provides additional emergency authority to the federal government to set targets for motor fuels and other energy sources. It also provides that states be given the opportunity to meet conservation targets established by the federal government through implementation of state plans prior to the imposition of a federal plan.

Preparation of a state emergency energy contingency plan is not a mandatory measure under EECA. However, failing to meet the federal target would result in the imposition of the federal conservation plan in a state. Section 213 of EECA, the proposed federal plan, published in the Federal Register on February 7, 1980 (45 FR 8462), contained nine emergency conservation measures: Public Information Measure; Minimum Automobile Fuel Purchase Measure; Odd-Even Motor Fuel Purchases; Employer-Based Commuter and Travel Measure; Speed Limit Measure; Compressed Workweek Measure; Vehicle Use Stickers Measure; Recreational Watercraft Measure; and Mandatory Temperature Restrictions.

The federal plan also contained eight preliminary measures for state consideration. These were: School Schedule Modification; Residential Building Temperature Restrictions; Miscellaneous Residential Energy Conservation Measures; Electrical End User Measures; Electrical Utilities Measures; Commercial/Industrial Boiler Efficiency Improvement; Industrial and Utility Fuel Switching; and Reduction of Lighting Energy Use.

The Recreational Watercraft measure was quickly withdrawn after the U.S. Department of Energy indicated the desire to evaluate emergency restrictions that would apply to all recreational vehicles and watercraft. On February 23, 1981, the Department of Energy withdrew much of the original proposal (46 FR 13517).

On February 5, 1982 (47 FR 5688) DOE withdrew the following measures from the federal plan: the odd-even motor fuel purchase restrictions, the employer-based commuter and travel measure, the speed limit enforcement and reduction measure, and the non-residential building temperature restrictions. The Federal Plan now includes only public information measures and the minimum automobile purchase restriction measure. In withdrawing these measures, DOE indicated that:

> "Based on the comments, DOE's own analysis and the fact that price controls have been lifted on crude oil and petroleum products, DOE has concluded that the measures

proposed for withdrawal ... would, if implemented, impose unnecessary burdens and restrictions on the public and on businesses, would be inconsistent with DOE's commitment to an unregulated energy market, and may be counterproductive since the implementation costs would likely outweigh the benefits produced by these measures."

While primary reliance would be placed on the market to allocate available supplies, this would "not preclude limited government involvement in the event of a major supply disruption." DOE noted that the President has the authority to drawdown the SPR, direct suppliers to furnish fuel for national defense needs, impose quotas or fees on crude and product imports to limit or discourage consumption, and temporarily waive regulatory requirements affecting domestic energy production and use.

The state plans are not guaranteed to be philosophically in line with the Administration's desire to rely on market forces. Indeed they may be at counterpurposes with federal policy. There is no guarantee of interstate coordination and, in fact, its possible that fifty separate and unique allocation or data collection programs may eventually be created without further federal guidance. For this reason, the contents and operating procedures of the state plans are of major importance to the producing and consuming sectors of the economy.

The State Plans[1/]

The following report consists of six basic sections:

A. Plan Information

B. Energy Emergency Definition

C. Energy Emergency Management

D. Information Program

E. Emergency Measures

F. Enforcement

1/ It is particularly important to note that the papers which have been analyzed for this report relate specifically to the state emergency energy contingency plans. No emergency energy management plans, which describe the procedures to be followed in developing the actual energy emergency plan, were reviewed. To date, 50 management plans have been submitted to the U.S. Department of Energy.

Each section is designed to provide the reader with information about the various elements of each state plan. The terminology is defined in the text and examples of how various states intend to utilize each element are provided. An effort has been made to provide information on the standard approach to implementing each program as well as to highlight those states which have adopted a seldom seen approach to a program.

At the end of the report, a matrix has been provided which reviews the elements of each state plan. Within that matrix, an attempt has been made to indicate which elements are voluntary programs; voluntary programs which become mandatory; mandatory programs; and mandatory programs which increase in severity as the emergency gets worse.

Obviously, not every action could be included, though a large percentage have been accounted for. It should also be noted that each plan should be reviewed for specific details of the operational procedures of the various programs listed.

SUMMARY

Forty-eight states have emergency energy plans in some phase of development. Of these, twenty-eight states have either produced an outline, published a draft or forwarded a copy to the U.S. Department of Energy for review and approval. The vast majority (23) have published a draft plan and, according to the U.S. Department of Energy, only two states (Nebraska, Missouri) had forwarded a copy of their plan to the department prior to the completion of this study. Twenty-eight state plans or draft plans were obtained for this report. The remaining plans have apparently not been released to the public for review or do not exist.

A. Plan Information

The states have generally approached the emergency energy response program in one of two ways: 17 states have concentrated their efforts on reducing travel and motor fuel use; eleven others have concentrated their conservation efforts on a variety of energy sources including, but not limited to, motor fuel, electricity, and natural gas.

B. Energy Emergency Definition

In attempting to define an energy emergency, the states have either picked a specific percentage shortfall (five states), certain physical characteristics (seven states) or a combination

of the two (six states). The percentage used in the definition varies from state to state and the physical characteristics (gasoline lines) vary as well. However, those states with a definition have attempted to identify a specific trigger mechanism which will take them from a pre-emergency into an emergency situation.

For 11 states, once an emergency has been declared, the full plan can be implemented. For the other 17, the response is phased and the utilization of severe actions is dependent upon the severity of the situation. On the whole, however, the states provide for a great deal of discretion as to the use of mandatory or voluntary actions.

C. Energy Emergency Management

Management powers are primarily reserved to the governors of the states, though nine states create a committee to advise the governor during an energy crisis. Fifteen states plan to assign specific state agencies with specific responsibilities during an emergency and 17 provide local government with a role. This role may be indicated by a note in the plan that the local governments are responsible for local planning (Kentucky) or a fairly comprehensive program which details the responsibility of local government for assisting citizens in overcoming a variety of socio-economic problems (California).

The private sector is seldom officially consulted prior to or during an energy emergency. Only eight state plans call for this action.

D. Information Program

Twenty-eight states will have some type of information program either to inform the public or the government on the energy situation. Twenty-six plan public education programs to advise the public on the problem and provide suggestions on how to conserve energy.

The state government will monitor the situation by having a data collection program in 20 states. Data will be used for prior investigations and surveys in 14 states and for monitoring the fuel supply/demand situation in 17 states. California appears to have the most comprehensive program as it seeks to track crude oil supplies, project and monitor demand and "[detect] misallocations of available gasoline. ..." Few states, if any, note that federally supplied data should be the main source of such information.

Three states provide subpoena power within the plan for data collection though this would also be cared for under state law. Five states plan appears to provide for confidentiality of data.

E. Emergency Measures

Approximately 65 separate actions have been identified in this report as options for the states to utilize during an energy emergency. This report does not identify every element of every plan.

In approaching the emergency energy situation, six states will look for increased production of energy as a part of their response. On the whole, however, the basic response is to force conservation, manage resource sales or allocate product as indicated below.

Allocation/Rationing/Distribution -- Twenty-one states will attempt to impact the fuel distribution system by implementing any combination of the following: a fuel set-aside program (14 states); increasing prices (6 states); placing limitations on (4 states) or prioritizing (9 states) deliveries; rationing (10 states); or stockpiling (2 states) resources.

Twenty-eight states would implement a system designed to reduce service stations queues. Actions within this element would be, among others, odd/even purchase (24 states); minimum purchase (24 states); flag system (18 states); and station hour requirement (14 states).

Regulations -- Ten states have included an element within their plans to examine air quality standards in time of emergency.

Transportation -- Within the transportation area, 25 states have identified actions to be taken. Most of these are designed to increase vehicle occupancy, thus, the measures include: public transit/carpool/vanpool (20 states); parking management (12 states); and a variety of vehicle operations restraint measures (22 states) such as driverless days (20 states); restrictions on single occupant vehicles (4 states) and toll increases (2 states).

Other transportation measures include: strict speed limit enforcement (25 states with 14 states set to reduce speed limits, if necessary); vehicle inspection programs (6 states); suspension of weight limits (11 states) and traffic flow improvements (9 states).

Electricity Restrictions -- Eleven states indicate electric lighting or transmission restrictions will be imposed.

Natural gas -- Nine states have developed a program on natural gas conservation.

Restrict Heating/Cooling -- Thirteen states.

Public Events Restricted -- Three states will restrict sporting or theatrical events.

Retail Operations Restricted -- Eleven states may seek to place restrictions on days or hours of operation. Ohio could close drive-up windows.

School Programs -- Thirteen states will restrict student/teacher driving, extracurricular events and/or regulate hours/days of operation.

Agricultural Programs -- Four states will attempt to alter harvesting, tilling, or planting techniques.

Social Service Program -- Five states have indicated that low income assistance or some other social programs will be a part of their plans.

State Government/Business Contingency Programs -- Twenty-two states have indicated that state government and the private sector will have specific roles in an energy emergency. Twenty-two states will have a program specifically for state employees. Twenty-three states will have employer based programs. Both programs will be similar in that they will provide for the development of emergency energy plans by individual businesses (usually those with over 100 employees) and individual state agencies. They will implement programs such as transit/carpool/vanpool, parking management, flex time, compressed workweek, and business travel reductions.

F. Enforcement/Exemptions

Twenty states addressed the issue of who will enforce the plan and/or who will be exempted. Fourteen states have indicated an enforcement procedure, ten states indicate what the penalties will be for violations and 21 states note who will be exempted from various sections of the plan.

EMERGENCY ENERGY PLANS

A. Plan Information

The state emergency energy plans are in six basic stages of development. Two states (New Hampshire and New Jersey) indicate that they have no intention of developing a state emergency energy plan prior to a Presidential declaration of an energy emergency. The remaining states have indicated that they have a plan in some stage of development.

In those cases in which the draft plan is being written (20 states) or a draft outline has been written but is not yet formalized (three states), a preliminary paper may have been obtained for this report. This may be merely a "thought paper" on the types of actions for the state to consider and the contents of the paper are certainly subject to review and change. They will, however, indicate the general philosophy of the state planners in their approach to the problem.

On the other hand, 23 states have published their draft plans and two states (Missouri, Nebraska) have forwarded final plans to the U.S. Department of Energy for approval. These papers tend to be more formal in their approach to the energy emergency issue and are a good indication of the types of programs which will be authorized for use in an energy emergency.

No plans have been approved by the U.S. Department of Energy.

There are two types of plans which have been developed. For the most part, the states have concentrated their emergency conservation planning efforts on travel and motor fuel use (17 states). The major portion of these plans are devoted to measures which will reduce or manage motor vehicle travel and motor fuel retail sales. These often include: Public Information, Minimum Fuel Purchase, Odd/Even Fuel Sales, Employer-Based Travel Measure; Speed Limit Enforcement; Compressed Workweek; and Vehicle-Use Sticker (Arkansas, Connecticut and others).

The other type of plan is one devoted to emergency conservation of a variety of energy sources. Few states (nine states) attempted to develop this comprehensive type of plan. Of those that did, the approach taken was to reduce consumption of motor fuel, electric power and natural gas. New York, Delaware and Kentucky are among the states which use this approach in their energy emergency plans. Montana concentrates on reducing consumption of electricity and petroleum but not natural gas since it is not a major factor in the states' consumption of energy.

B. Energy Emergency Definition

Eleven states, out of the twenty-eight with published draft plans or outlines, have not defined an energy emergency within their plans; they have merely indicated the powers available to state authorities in the event of an emergency fuel supply situation.

Seventeen of the published draft plans or outlines have attempted to define an energy emergency. Seven states (Alaska, Arkansas, Florida, Kansas, Nebraska, Utah and West Virginia) have defined an energy emergency as a period in which petroleum supplies fall short of demand by a fixed percentage. Five more states have determined certain physical indicators (i.e., lines at service stations) which they feel prove the existence of a shortage (Connecticut, Illinois, Minnesota, North Carolina and Vermont). Six other states use a combination of percentage reduction and indicators to define a shortage (California, Delaware, Massachusetts, Missouri, Montana, and Washington).

Additionally, the plans may specify that the severity of the state actions increases with the severity of the energy emergency. In all states, the procedure will be to exit a stage of "pre-emergency" (California) or "ongoing conservation planning" (Illinois), which may or may not be specified in the plan and, upon the declaration of an energy emergency, enter into an initial emergency stage.

Eleven states have only identified one stage of emergency. In these states, the severity of the response is at the discretion of the Governor or other responsible state official who may choose among a variety of voluntary or mandatory programs within the plan.

The remaining 17 states have identified two or more stages of emergency beyond the planning stage. In these states, the response is less discretionary and more dependent upon the plan's definition of the emergency. Still, a great deal of discretion is provided the individual in charge.

Nomenclature used to describe the multiple stages of response to an energy emergency tends to be relatively similar from state to state, though definitions of the various stages vary. The stages are identified as mild, moderate and severe, or as Phase I, Phase II, Phase III, etc.

Generally speaking, a Phase I (mild) shortage is one which falls in the zero to 10 percent range with sporadic gasoline lines. A Phase II (moderate) shortage is one of from 11 to 20

percent shortfall with gasoline lines throughout the state. A Phase III (severe) shortage is one of greater than 20 percent shortfall in which petroleum is difficult to obtain at any price.

Of course, there are variations of the above definitions. Delaware, and other states which have adopted plans for conservation of a variety of energy sources, have related the definitions of the various stages to those energy sources (i.e., Phase IV (severe) is defined, in part, as "widespread curtailments of natural gas"). Also, the percentage shortfall tends to vary drastically among states. California's Stage 4 "occurs when the statewide shortage reaches the point, probably in excess of 3 percent, where emergency conditions are spread widely. ..." Nevada has two stages of response but has not yet defined them.

C. Energy Emergency Management

Most states have identified a specific role for individual state officials or agencies and have identified a procedure by which an energy emergency may be declared. Often, this is a reference to existing law and will outline the powers provided to the Governor (Missouri, Florida).2/ Management powers are primarily reserved to the Governor as the chief executive, though nine states have provided for the creation of energy emergency advisory committees. Fifteen states have authorized the reorganization of state agencies, assigned responsibilities to each agency or delegated certain powers to an agency during an energy emergency. Delaware, in one of the most comprehensive effort of this type, assigned specific responsibilities to nine state agencies, including the Department of Energy, Public Safety, Labor, Agriculture, Highways and Transportation, and Health and Social Services.

Only eight states provided the Public Utility Commission with a direct role. Montana stated that electric rate price increases could be utilized to encourage conservation.

2/ For a comprehensive listing of how each state has approached this and other issues, see the attached matrix. The text will not always provide a comprehensive listing of those states utilizing a particular program; it will often provide examples, the matrix provides the most comprehensive listing of each state's approach.

A role for local government is a more popular element of the state plans as 17 states have indicated the need for local energy emergency plans. Illinois will "encourage" the cooperation of local governments. Kentucky notes that local planning is the responsibility of local government. Washington assigns the local governments with specific responsibilities depending on the severity of the crisis, though this should probably not be interpreted as a mandate as much as it is a suggestion.

Missouri would require reductions in local government fuel consumption by specific percentages depending on the severity of the shortage.

Montana would require a reduction in miles driven with periodic reports to state officials as well as staggered work hours, car pools, etc.

Ohio would request that local governments participate in an effort to reduce travel, create car pools and preferential traffic lanes.

California, in one of the more detailed plans for local government, has provided local officials with the primary responsibility for assisting citizens who have energy shortage problems, noting that those individuals may face a number of socio-economic problems including inability to purchase heating fuels; inability to pay energy bills; or unemployment. To assist their citizens, the local officials are to coordinate and publicize assistance programs as well as a number of other items. Of note is the call for preparation of Local Emergency Management of Energy Resources Plans.

The private sector is often mandated to take certain action in an effort to conserve energy, however, in only eight states is the business community consulted prior to or during an energy emergency. (Arkansas, Connecticut, Florida, Kentucky, Maine, Montana, Nebraska and North Carolina). Kentucky's ad hoc EECA Committee, made up of 33 of the state's business leaders, serves as an advisory panel in the development of the plan.

D. Information Program

The objective of the Information Program of a state's energy emergency contingency plan is to keep the public informed as to the cause of the existing emergency. More importantly, however, this program serves the function of advising the public on how to cope with decreased energy supplies. The public will need to know what actions have been and need to be taken to conserve

energy. Print and electronic media can be used in this effort as can direct residential mailings, telephone hotlines, multimedia educational programs for use in shopping centers and educational programs for large employers.

Most states (26) intend to have a public education program, though few have provided details as to the methods they intend to employ. Delaware merely states that an education program will be used. Illinois, on the other hand, indicates that it will develop a campaign to draw attention to energy conservation practices. This will include a public information service on the fuel supply situation and reports on the success or failure of conservation efforts. Additionally, the campaign is intended to be a multimedia effort involving trade journals, billboards, brochures, bumper stickers, envelope and payroll inserts, newsletters, newspapers, television, radio and posters, etc.

Data collection for investigations and surveys or for monitoring the energy supply situation will take place in 20 states (Arkansas, Colorado, Connecticut, Delaware, Florida, Illinois, Kansas, Maine, Minnesota, Missouri, Montana, Nebraska, Nevada, New York, North Carolina, Ohio, Tennessee, Vermont, and Washington). However, it is important to realize that this effort is often covered in the state energy law in a total of 28 states. A total of 31 states are covered for data collection between state laws and plans.

The effort will be aimed primarily at a "forecast of the expected relationship between fuel supply and fuel demand." The fuel supply information would be compiled from bulk distributor reports (EIA-25), while demand would be determined by adjusting prior year consumption to allow for state growth, conservation, and other factors affecting consumer responses (Tennessee).

Nevada's plan notes that while legal authority for implementing the plan is sufficient, the state's existing data collection procedures are not. Pre-emergency conservation measure effectiveness, evaluation and strategy refinement will probably require annual updates of fuel distribution and end user information as contained in the Nevada's DOE's report: Energy in Nevada. The plan indicates that such information would be "significantly enhanced by the inclusion of additional data categories" such as past month fuel supply (or sales) and prediction of future months supply.

California appears to have the most ambitious data collection element. It calls for a monitoring system which would provide information on:

- o tracking crude oil supplies to provide advance warnings of interruptions;
- o projecting and monitoring demand in an effort to detect changes in consumption; and
- o detecting misallocations of available gasoline that would lead to special local hardship.

Delaware, Florida, Maine, North Carolina and Vermont are the only states to provide for confidentiality of data and Delaware, Florida and Maine provide for subpoena power within their plans. Again, confidentiality and subpoena power may be covered by state laws, though not necessarily the state energy law.

E. Emergency Measures

The plans provide the authority to implement a large number of programs to the state. Seven states have related a shortage situation to the need to increase supply and/or production of energy resources. Kentucky would look for increased coal production as a result of states switching to non-petroleum boiler fuels. Montana would seek an increase in refinery yields and emergency power transfers within an electric power pool. Delaware would attempt to obtain additional petroleum supplies and stockpile petroleum product if possible. Nevada plans a geothermal and solar power development program while Oregon looks for increased use of alternate fuels.

Fuel allocation/rationing/distribution usually refers to the state set-aside program or some type of fuel management scheme. Fourteen states have indicated that they will participate in the federally authorized set-aside program prior to the expiration of the Emergency Petroleum Allocation Act. New York was the only state to note that a set-aside would be used with or without federal authority. However, they do not need the plan to provide such authorization and, in fact, past history [3/] shows a strong inclination to utilize set-asides. The middle distillate program (Arkansas, Delaware, Minnesota, Montana, Nebraska, New

3/ Forty-eight states are known to have participated in a past middle distillate set-aside program. The two non-participating states were Utah and Hawaii. Every state has participated in a gasoline set-aside with only Hawaii and California not electing to distribute directly to gasoline service stations. Forty-one states elected to participate in a propane set-aside. Alaska, Delaware, Idaho, Maine, Michigan, Nevada, North Carolina, Oregon, and South Carolina chose not to participate.

York, Oregon, Vermont) is designed to decrease the impact of a fuel shortage by having the state's prime suppliers set aside a portion, historically four percent, of the middle distillate fuel oil supply for allocation by the state. Established in July of 1979, the program provided that any purchaser, consumer, or end user, experiencing hardship or emergency fuel requirements, may make an application to the state energy office for a portion of the set-aside. The program was in use until March 31, 1981, when federal authorization ended. The end of federal authority in this area greatly clouds the legality of this element of the plans. However, it should be noted that the Emergency Energy Conservation Act (EECA) mandates that the authority for actions included within the state plan be based upon state and not federal law.

The state set-aside for propane establishes a reserve supply of propane, historically set at three percent, fo allocation by state energy offices, which can be used to reduce the impact of spot fuel shortages. Wholesale purchasers, consumers or end users may apply for an assignment from the propane set-aside prior to an emergency declaration.

In practice, the state energy office identifies certain geographical areas of the state as bearing a less than equitable share of the supply shortage and instructs the prime suppliers to release a portion or all of their set-aside to those areas. Additionally, a few state energy offices may order the delivery of all or a portion of the reserve via the normal distribution system. Only five states (Arkansas, Delaware, Nebraska and Vermont) have indicated that they will utilize this program.

In the gasoline set-aside program, the U.S. Department of Energy required prime suppliers of gasoline to set aside five percent of their intra-state gasoline supply. The set-aside was then allocated by the state energy office to retail gasoline dealers, wholesale purchasers, consumers or end users with hardship or emergency requirements. Set-aside fuel from a prime supplier was assigned by the state energy office for delivery to the applicant on a priority basis.

The state energy office could order the delivery of a portion or all of the set-aside via the prime supplier's distribution system. If specific intra-state geographic areas bear a less than equitable share of a supply shortage, the state energy office would instruct the prime suppliers to release a portion or all of their set-aside to those areas.

State gasoline set-aside programs were utilized by every state at one time or another under federal controls. Few states indicated in their plans that set-aside would be an element of the state response. However, the states did not anticipate an end to the set-aside program, as they were developing their response plans. It is probable that, unless a federal standby program is enacted, the states will develop their own set-aside programs. Only ten states indicate a desire to have a gasoline set-aside in their plans. It should be noted that twenty-nine states do provide for a broad allocation provision in the state energy emergency law. Fourteen states are expected to examine this issue legislatively in 1982.

Pricing measures are designed to reduce consumption by raising the cost of energy through state surcharges or market price increases. The objective is to induce consumers to voluntarily bring their total purchases into line with a given target and supply. With decontrol of the petroleum market, this measure's value is questionable since, as California concludes, "A gasoline shortage will occur when the amount of gasoline available is less than consumers want at prevailing prices. In the absence of price controls, such a shortage would be eliminated by an increase in the market price. ..." Six states consider a pricing measure, mostly oriented to gasoline costs.

Colorado's and California's plans call for rationing through a rebatable surcharge. Recognizing that gas lines "are a direct result of existing federal price regulations," the California plan suggests putting a temporary market clearing surcharge on each gallon of gasoline. The money collected by the state would be rebated on a per vehicle, per licensed driver basis or some other formula. Massachusetts may implement a 50 cent/gallon tax.

Montana, on the other hand, notes that the Public Service Commission could "examine the feasibility and efficacy of utilizing rates to control consumption and promote conservation [of electricity]." It would appear that this option is open to most state PUCs.

Delaware and Kentucky would attempt to stockpile fuel. Delaware states simply that an effort should be made to stockpile. Funds are not provided for this purpose.

A state could introduce its own fuel rationing system by issuing coupons to state residents, or owners of vehicles registered in the state (for gasoline) which entitles the holder to purchase fuel in specified quantities at the controlled price.

Probably because of the expense involved in a state rationing program, this element is not high on the list of too many

states. Only ten states indicate an interest in the rationing effort and all but one of those relates its rationing component to a federal program.

California examined the use of a coupon rationing program, but appeared to be fairly negative in its analysis. The discussion stated that the cost would be high ($60 million per three month period) but could be justifiable. On the other hand, advance costs in the millions of dollars for a program which might never be used presented a major drawback. Similarly, "going it alone" with coupon rationing could become confusing if the federal government ever implemented such a program.

Minnesota, Montana, New York and Oregon are the only states which may seek to limit the quantities of fuel oil delivered, though Montana and Oregon plan to do so on a voluntary basis. Delaware, New York, Michigan, Montana and Ohio may attempt to redistribute gasoline intrastate from areas of surplus to areas of need. Arkansas, Delaware, New York and Oregon may allocate fuel to high priority users.

Retail management programs aimed at relieving service station queues will be concentrated on by most states. Twenty-eight states will have voluntary or mandatory programs designed to control motor fuel sales. The overwhelming number of states will have a mandatory program which will impact the following areas:

o Twelve states will ask or require service station dealers to display, in a prominent area, the station hours for fuel sales, for repairs, and prices (Arkansas, California, Colorado, Delaware, Florida, Kentucky, Maine, Montana, Ohio, Oregon, Washington and West Virginia).

o Twenty-four states will require that an odd/even purchase program be utilized in which the sales of motor fuel are based on the final digit of the vehicle's license plate. Odd number plates may purchase motor fuel on odd days and even numbers on even days. Plates ending in a letter are handled in a variety of ways. Exceptions are granted for individuals with hardship. Out of state plates are generally not subject to this plan. Three states (California, Colorado and Illinois) indicate that as the severity of the shortage increases, the motor fuel sales pattern will change to once every three days rather than every other day.

o The minimum/maximum purchase requirements permit consumers to buy only when their tanks are less than 1/2 full or permit them to buy only a minimum or a maximum dollar amount.

Almost every state will go with a minimum purchase program, though North Carolina may permit dealers to voluntarily establish a maximum sale as well. Twenty-four states have provided for the establishment of a minimum/maximum purchase program.

o The flag system is designed to provide information to motorists regarding the availability of fuel. Typically, a green flag indicates that fuel is available, though there may be purchase restrictions; a yellow flag may indicate fuel is available to emergency vehicles only; and red advises that the station is closed, or open for all services other than the sale of fuel.

Iowa indicates that it will mark its green flag with a black circle and its red flag with a black circle with an X in it so as to provide for color blind drivers. Michigan's green indicates the availability of both leaded and unleaded fuel, while the yellow indicates that no unleaded is available. The red flag in Michigan indicates fuel for priority vehicles. Eighteen states plan to participate in this program.

o The station hour program is designed to require gasoline stations to pump gas at specific times or dates in an effort to assure that fuel will be available to consumers. It requires coordination at the local level. Twelve states indicate a willingness to mandate hours for service station dealers. Ohio would request odd/even sales days and staggered hours. Generally, however, the station hour program is an effort to keep stations open in accordance with their normal business practice.

o Six states will ask dealers to apportion their product sales so as to have supplies available throughout the entire month. The dealer is often asked to sell no more than approximately one-thirtieth of his/her allocation on any one day.

o The separate container rule provides that the sale of product in containers, separate from the vehicle gasoline tank, be restricted (eight states). One to two gallon limits are placed on such sales, though Maine permits a six gallon limit.

With regard to the suspension or modification of existing standards or regulations, nine states provide the authority in their plans. For the most, the authority is provided elsewhere in state law. However, Delaware, Kentucky, Montana, Nebraska, North Carolina, New York, Oregon, Vermont, and Washington do note that air quality standards may be suspended in an energy emergency.

In an effort to minimize the impact which a fuel supply shortage would have on the employment rates of high-priority fuel burning installations, the Governor may, upon application by the

owner/operator of that installation, petition the President to declare an energy emergency so that sections of the state's Clean Air Act may be suspended. This action is designed to permit the fuel burning installations to burn available fuels, be it coal or residual oil, which may violate state emission control standards. It may also remove requirements to use energy intensive emission control equipment. Suspension of the specified provisions of the state implementation plan may last from 30 to 60 days, with only one four month-long suspension to an installation during a single energy emergency.

The U.S. Environmental Protection Agency is assigned the task of ascertaining whether the energy emergency exists and if the suspension is helpful. EPA may reinstate improperly suspended provisions of state implementation plans.

The modification of transportation standards seems to be one of the more popular potential programs in an energy shortage. Twenty-five states have devoted some portion of their plan to an improved transportation system. The major effort in this field will be to increase the vehicle occupancy rate through a number of public transit/carpool/vanpool programs. Twenty states will have programs in these areas. Utah's plan suggests that school buses be used to supplement the existing transit system. Legislation would be required in most states to accomplish this. (Additionally, many states will have transit/carpool/vanpool programs for state and private sector employees. See relevant sections for more information.)

Twenty-five states will place a greater emphasis on the enforcement of the 55 mph speed limit. Fourteen of those states will consider reducing the speed limit from 55 mph to 50 mph (or lower) if the severity of the situation so warrants. No funds are appropriated for increased enforcement in any of the state plans.

The public parking management program is designed to complement and encourage a shift from low to high occupancy vehicles by preferential treatment to carpools and vanpools. Such high occupancy vehicles would recieve reduced parking rates or preferential treatment. Twelve states provide for a public parking management plan. Washington would establish parking zones around the central business district and give preferential parking to carpools. Washington could also implement parking zones with graduated fees; the highest fees in the central business district, the lowest in the furthest zone. Colorado may reduce commercial parking spaces by forty percent and provide for a twenty-five percent increase in charges at those facilities. Colorado could also utilize a graduated fee system for low occupancy vehicles.

States with a major tourist industry may consider special programs designed to provide assistance to travelers. Colorado, Delaware, Florida and Michigan have indicated an interest in such a program. Florida's plan, to be used only in a localized or mild shortage, calls for the designation of selected service stations in strategic locations throughout the state where gasoline will be available from 7 a.m. to 9 p.m. (or some other set of minimum operating hours); minimum sales; and telephone "hot lines" to provide toll free information.

Seeking to attain peak vehicle fuel economy, the vehicle inspection measure is designed to encourage motorists to perform certain maintenance tasks on an annual basis. Those tasks include: engine tune-up; tire pressure check; lubricants; and front-end wheel alignments. Six states are considering implementing this measure (California, Kansas, Nebraska, North Carolina, Oregon and Veromont). Only California intends to implement a mandatory inspection program, while Kansas' program can become mandatory as the severity of the shortage increases.

A number of vehicle operation restraint measures are provided for by the state plans. In the most severe crisis a driverless day sticker plan will be implemented. Vehicle owners would be required to select or would have selected for them a day of the week, other than Saturday or Sunday, on which their vehicle could not be driven. A sticker displayed on every vehicle would identify the day of the week. The goal of the program is to reduce consumption by restricting automobile use.

Twenty states have listed this action as an option with only three of those strictly voluntary (Iowa, Nebraska and West Virginia). Colorado, Connecticut, Kentucky, North Carolina and Oregon would initiate a voluntary program which could become mandatory as the crisis' severity increased. Illinois, Kansas, Maine, Minnesota, Missouri, Tennessee, and Utah would require one driverless day per week; while Alabama, Arkansas and California would start out with a one driverless day program and increase it to two or three as the crisis became more severe.

The handling of multiple car households under this program appears to be fairly standard as most states, North Carolina and Minnesota, among others, would require all cars within one household to remain off the road on the same day. Illinois, on the other hand, would not require multiple car households to choose the same day and Maine makes no provision for families with more than one car.

Odd/even driving, in which vehicle operators would be required to drive only on even days if their license plates ended

in an even number or odd days if their license plates ended in an odd number is not included in any plans except for Colorado, Connecticut and Louisiana.

Single occupant vehicle restrictions are considered by four states. In general, they would ban single occupant vehicles from operation in certain traffic lanes (Washington). Ohio would increase parking rates for such vehicles while Massachusetts would prohibit the parking of such vehicles altogether.

In other transportation measures there are seven states which make a general call for voluntary travel reductions (California, Iowa, Missouri, Montana, Oregon, Utah and Washington). Delaware would begin with a volunteer program and move to mandatory if necessary. Seven states (California, Delaware, Florida, Montana, Minnesota, North Carolina and Utah) seek increased voluntary bicycle use. Florida and Washington would consider increased highway tolls. Nine states would attempt to improve traffic flow by improving traffic light signals, providing left turn lanes and making street improvements. Arkansas, California, Colorado, Florida, Massachusetts, Michigan and North Carolina indicate the need to implement this program prior to an emergency.

Eleven states would seek to suspend restriction of transport, most specifically the raising of truck weight limits. The objective of this program is to increase the volume of fuel oil or other goods moved by truck from storage facilities to distributors and to decrease the number of trucks needed to move goods. The authority to suspend truck weight limits requires a legislative mandate to the Governor or other designated official. Connecticut, Delaware, Florida, Kentucky, Missouri, New York, North Carolina, Ohio, Vermont, and Washington have indicated that they will consider this program.

Jitney deregulation could provide for shared ride operations. This could expand the capacity of existing taxi fleets to accommodate new public transportation users and to improve fuel efficiency in passenger miles per gallon of taxis. Changing local restrictions on the number of available taxi licenses and entry restrictions would expand fleet size.

Only three states have provided for this type of action (California, Massachusetts, and Washington). California and Washington look for improved taxicab utilization, with Washington encouraging predetermined routes for taxis to follow.

Restrictions on the consumption of electricity are placed upon public or commercial lighting in eight states (Connecticut,

Delaware, Kentucky, Nebraska, North Carolina, Ohio, Vermont and Washington). Additionally, Delaware, Nebraska, and Ohio have a voluntary residential lighting reduction program. Delaware, Montana, North Carolina, Ohio and Kentucky provide for transmission reductions to large consumers with the Montana and Delaware program going from voluntary to mandatory if necessary. Nebraska's plan concentrates on various energy resource conservation by reducing the production of electricity for irrigation. A voluntary Nebraska plan and the Connecticut plan asks people to not heat rooms not in use; to reduce hot water temperature to 105°; limit the number of hot meals each day; and turn air conditioners up to their highest setting. Delaware and Montana are apparently the only states which have openly indicated the potential for electric rate surcharges by their public utility commissions as a means of reducing consumption. Montana's Public Service Commission could also set priorities for the distribution of available electricity supplies in mid- to longterm supply shortages.

Delaware, Kentucky, Montana, Nebraska, New York, North Carolina and Ohio appear to be the only states with a program for the emergency conservation of natural gas.

The objective of restrictions on heating/cooling is to lower residential, commercial, industrial and governmental consumption of various fuels by reducing temperature settings during the heating season, or raising them in the cooling season. The program is highly dependent upon public awareness, education and cooperation. Alabama, Connecticut, Delaware, Kentucky, Minnesota, Montana, Nebraska, Nevada, New York, Ohio, Oregon, Vermont, and Washington will participate in this program. All start with a voluntary effort and only Ohio, Vermont and Connecticut may become mandatory as the shortage becomes more severe.

Eleven states may impose restrictions on retail operations. Such actions may include the closing of retail operations one or more days per week or restrictions on drive-up windows (Ohio). It may also include regulated hours of operation. States have attempted to stay away from this type of program because of the potential impact upon the state's economy.

School systems will be asked to implement conservation programs in fourteen states. Alabama, Connecticut, Florida, Missouri, Montana, and Nebraska have non-specific programs. Arkansas and West Virginia would restrict student/teacher driving. Delaware, Kansas, Minnesota, North Carolina and West Virginia would restrict student driving and extracurricular activities, including sports events; Connecticut, Kansas, Kentucky, Massachusetts, Minnesota and North Carolina would attempt to regulate school hours.

Delaware, Iowa and Massachusetts would attempt to restrict public events such as sports or the theater. Delaware, Iowa, Montana and Nebraska have agricultural programs which may attempt to alter harvesting, tilling or planting techniques.

Delaware, Iowa, Florida, Oregon and Vermont are the only states to devote a portion of their plans to social services or low income assistance.

Most states have acknowledged that if the public is to make an effort at energy conservation then the state and its employees must set an example. Twenty-two states have established some type of State Government Contingency Program for its departments and/or employees. Eleven states plan a transit/carpool/vanpool program. It may be a voluntary program (Iowa, Michigan) for employees as they commute or a mandatory program (Minnesota, Montana and Ohio).

To encourage increased vehicle occupancy, eight states would develop a parking management program which provides preferential parking for carpoolers or vanpoolers. It may also reduce parking to encourage employees to use public transit or carpools/vanpools.

State employees could be requested or required to implement work hour policies designed to reduce energy consumption. Flex time/staggered hours permit employees to adjust work schedules to spread out peak period travel and reduce consumption through improved traffic flow. Eleven states have provided for such a program. Montana and North Carolina would mandate such programs. Ohio and West Virginia would have a voluntary program, though Washington could go mandatory. Vermont would close state offices except for essential agencies.

A compressed work week would shorten the workweek by one day. A workweek of four ten-hour days would be implemented. In so doing, the theory is that the total number of commuter trips would be reduced and this would reduce gasoline consumption. Seven states indicate that they would consider this program. Kansas, Kentucky, Minnesota, Montana and North Carolina would be mandatory; Washington's programs is non-specific.

State travel would be reduced in ten states under a generalized measure. Six states would ask/require agencies to reduce consumption by a specific percentage as compared to the corresponding month of the previous year. Illinois, Massachusetts, and Montana would require this program. Montana would increase the percentage with the severity of the shortage. Arkansas, Delaware, Ohio and Illinois have programs for reduced auto use. In five cases, the agency director would have some options as to the program to be implemented. In Minnesota, the director would

have to have a program but could choose the elements. The same is true of Florida, though the program starts out voluntarily.

The Business Contingency Programs under an energy emergency are similar to those imposed upon state agencies. In most cases, the state will impose such programs only upon employers who have more than one hundred employees at a particular work site. Twenty-three states will have a business sector program.

Seventeen states would look for transit/carpool/vanpool programs; California and Minnesota would be mandatory, and Delaware, North Carolina and Washington have the potential to become mandatory. Alabama, Arkansas, Colorado, Florida, Iowa, Kansas, Kentucky, Missouri, Ohio, Utah and West Virginia would also participate. A number of institutional barriers would have to be removed for many employers to participate in such a program. These include, among other things, insurance and PUC regulations which inhibit carpools/vanpools by treating them in a similar fashion to common carriers. In an effort to improve the chances for increasing the vehicle occupancy rate, 16 states including Florida, Iowa, Minnesota, Missouri, North Carolina, Utah and Washington would have a parking management program similar to those previously described.

Seventeen states (California, Delaware, Florida, Iowa, Montana, North Carolina, and Washington, among others) have provided for a flex time/staggered hours program, with Minnesota and Massachusetts having the only mandatory program upon implementation. Delaware, Kansas, North Carolina, Oregon and Washington become mandatory if necessary. Sixteen states may have compressed work weeks, though only Massachusetts, Minnesota, Utah, and Vermont are mandatory upon implementation. Connecticut, North Carolina and Oregon are mandatory if the situation calls for it. Eleven states call for business travel reductions, with Minnesota, North Carolina and Vermont having a mandatory program. Tennessee, Utah and Washington have business travel reductions programs which can be mandatory but start out voluntary. Delaware, Iowa, Montana, Ohio and West Virginia have voluntary or non-specific programs.

Alabama, Arkansas, Florida, Iowa, Kentucky, Michigan, Minnesota, Montana, North Carolina and West Virginia's employers have a choice of the measures outlined above. Alabama, Delaware, Iowa, Massachusetts and Minnesota employers are mandated to participate, though Arkansas, Florida, Kansas, North Carolina and Vermont employers can be so mandated if the severity of the crisis warrants it.

F. Enforcement

This section of the plan details which parties are responsible for enforcing the plan. For the most part, law enforcement officials are directed to carry out enforcement (14 states).

Civil penalties (ten states) are limited to misdemeanors. Minnesota, for instance, provides a fine of $500 or 90 days in jail or both. Each day of operating in violation of the plan would be considered as a separate offense. Minnesota also provides a civil penalty of up to $10,000.

Twenty-one states provide a system of exemptions from the plan. Exemption may be granted for specific vehicles. Often, this applies to emergency vehicles, commercial vehicles in excess of 10,000 lbs. gross weight, energy production vehicles, agricultural vehicles, public transit vehicles, handicapped persons, motorcycles, and short-term rental vehicles. Vehicle exemptions may be provided to avoid service station queing rules. Exemptions may also be provided for certain businesses so that they are not forced to participate in certain business sector programs if participation will result in an undue economic burden. A specific procedure for seeking an exemption is often provided.

LIST OF STATE PLANS

Copies of the following were reviewed:

Alabama	Emergency Energy Conservation Plan -- Draft -- 7/10/80
Arkansas	Emergency Energy Conservation Plan for Motor Fuels -- Final Draft 9/81
California	Gasoline Shortage Emergency Plan -- Preliminary Report -- 12/24/79
Colorado	Gasoline Shortage Contingency Plan -- Draft -- 2/27/80
Connecticut	Energy Emergency Plan for Connecticut -- 1/15/75 -- Amendments to the Connecticut Energy Emergency Plan -- 2/80
Delaware	Energy Emergency Contingency Plan -- Final Plan -- 11/1/80; Emergency Energy Conservation Plan (EECA) 11/81.
Florida	Energy Emergency Contingency Plan -- Interim Plan -- 3/80
Illinois	Gasoline Conservation Plan -- Draft -- 4/22/80
Iowa	Standby Emergency Gasoline Conservation Measures -- Draft -- Undated. H.F. 782. State Set-Aside 7/1/81.
Kansas	State Emergency Energy Conservation Plan -- 7/80
Kentucky	Emergency Energy Conservation Plan -- Draft -- 2/81
Maine	Gasoline Contingency Emergency Plan -- Draft -- Undated
Massachusetts	Potential Gasoline Restraint Measures -- In House Discussion -- Draft -- 6/80
Michigan	Gasoline Shortage Response Plan -- Final Plan -- 7/80 -- as updated by Michigan Gasoline Shortage Response Plan -- 12/81

Minnesota	Petroleum Supply Emergency Conservation Rules -- 8/81
Missouri	Transportation Fuels Emergency Plan -- Draft -- 9/80
Montana	Rules Implementing the Governor's Emergency Power During Petroleum Fuels Shortages -- Final Rules -- 12/80
	Montana Energy Emergency Contingency Plan -- Final Draft -- 4/80
Nebraska	Energy Preparedness Plan -- Final -- Summer 1980
Nevada	Emergency Energy Contingency Plan -- Proposed Conservation Measures: Phase I -- 4/16/80
New York	New York State Emergency Energy Plan -- 1/78
N. Carolina	Emergency Energy Conservation Plan -- Gasoline -- Third Draft -- 8/80
Ohio	Standby EECA Petroleum Plan -- Working Draft -- 8/11/80; Massive Fuel Emergency and Allocation Administrative Rules.
Oregon	Governor's Transportation Energy Conservation Task Force -- Draft -- 1/28/80
Tennessee	Emergency Fuel Conservation Plan -- Draft -- 4/80
South Dakota	A draft plan has been written, no statutory authority to implement the plan exists.
Utah	Emergency Energy Conservation Plan -- Draft -- Undated
Vermont	Energy Emergency Guidelines -- Draft -- 1981
Washington	Emergency Fuel Contingency Plan -- Draft -- 6/80
West Virginia	Emergency Energy Conservation Plan for Motor Fuels -- Draft -- Undated

KEY TO STATE EMERGENCY ENERGY CONTINGENCY PLANS MATRIX

The attached chart provides detailed information on the contents of the individual state emergency energy contingency plans. The plans are broken down into six basic subject areas (Plan Information, Energy Emergency Definition, Energy Emergency Management, Information Program, Emergency Measures, and Enforcement). Since the states do not intend to utilize every option at once or to make every option mandatory upon implementation, it was necessary to attempt to code the matrix so as to indicate which measures are voluntary, which are mandatory and which increase in severity as the crisis becomes worse. The following code applies to this chart.

KEY

1. Program exists; elements are non-specific

2. Voluntary program

3. Voluntary program which becomes mandatory as the severity of the crisis increases

4. Mandatory program upon implementation

5. Mandatory program which increases in severity as the emergency increases (i.e., odd/even product sales becomes a three-day purchase plan; one driverless day becomes two; the 55 mph speed limit is reduced to 50 mph; etc.)

SUMMARY OF STATE EMERGENCY ENERGY CONTINGENCY PLANS

E. EMERGENCY MEASURES (continued)	ALABAMA	ALASKA	ARIZONA	ARKANSAS	CALIFORNIA	COLORADO	CONNECTICUT	DELAWARE	FLORIDA	GEORGIA	HAWAII	IDAHO	ILLINOIS	INDIANA	IOWA	KANSAS	KENTUCKY	LOUISIANA	MAINE	MARYLAND	MASSACHUSETTS	MICHIGAN	MINNESOTA	MISSISSIPPI	MISSOURI	MONTANA	NEBRASKA	NEVADA	NEW HAMPSHIRE	NEW JERSEY	NEW MEXICO	NEW YORK	NORTH CAROLINA	NORTH DAKOTA	OHIO	OKLAHOMA	OREGON	PENNSYLVANIA	RHODE ISLAND	SOUTH CAROLINA	SOUTH DAKOTA	TENNESSEE	TEXAS	UTAH	VERMONT	VIRGINIA	WASHINGTON	WEST VIRGINIA	WISCONSIN	WYOMING
d. Limit Quantities of Fuel Oil Delivered																							4		2						1					2															
e. Allocation of Fuel to High Priority Users				1			2										1					1	1								1		1		4										1				
f. Intrastate Redistribution of Fuel							1															1			1						1		1												1				
g. Redistribution of Fuel From Large Users																						2									1		1											4					
h. Rationing					4	4	3																		4		1								3								4	4		4				
i. Service Station Queing Reduction	1		1	1	1	1	1	1			1		1	1	1	1			1		1	1	1		1	1	1	1			1	1	1		1								1	1	1		1	1		
(1) List hours/prices/fuel availability			2	4	4		3										3																		2	3											4	2		
(2) Odd/even purchase	4		4	5	5	1	4	4			5		4	1		3		4	5	4		4	4								4	3		3		4							4	4		4	2		
(3) Minimum/maximum purchase	4		3	4	4		4	4			4		4	3	4	3		4	4	4		4	4									3				3							4	4	2		4	2		
(4) Flag system			3			4	4						4	4	1	3		4	4	4		4	3								4			3	3								4	4		4				
(5) Station hour requirements				4	4		2	4			4			4					4	3	4		4								4			2	4											4				
(6) Dealer apportions product																2							4	2							4	2		2										4				
(7) Seperate container rule							1										4		1			1	4								4			3	3										1				
j. Suspend/Modify Existing Standards/Regulations						1	1	1						1									1		1	1					1	1			1										1	1			
a. Air Quality Standards Suspended							1	1						1											1	1					1	1			1										1	1			
b. Generally Reduce Energy Inefficient Regulations																																1													1			
k. Transportation Measures	1			1	1	1	1	1			1		1	1	1		1		1	1	1	1		1	1	1						1		1		1							1	1		1	1		
a. Public Transit/Carpool/Vanpool			1	1	2	3	2				2		2	3		2		1	2			1	2		2	2						1			2							2	2	2		2			
b. Speed Limit Enforcement	5		5	5	5	5	4				4		4	4	5	1		5	5	5		5	2	1								5		4	2							5	4		5	2		
c. Public Parking Management			4		1	3	1							3	3				2	2												1		1	3										1				
d. Traveler Assistance					1		1	2														1																											
e. Vehicle Inspection/Maintenance				4											3												2					2			2								2				
f. Vehicle Operations Restraints	1			1	1	1	1											1	1	1		1	1		1	1									1	1							1	1		1	1		
(1) Sticker plan/driverless day	5		5	5	3	3					4		2	4	3		4		4		4	4	2								3		1	3								4	4			1	2		
(2) Odd-even driving						3	4									3																																
(3) Restrict single occupent vehicles							4													4														1											1			
(4) Auto free zones								1																																								
(5) Reduce travel				2		3		2																2	2											2							2			2			
(6) Bicycle use encouraged				2		1	1														1			2							2											2			1			
(7) Increase tolls						1																																										
g. Traffic Flow Improvements			1	1	1		1							1							1	1									1														1			
h. Suspend Restrictions of Transport Such as Weight Limits				1		2	1	1						1										2							1	1	1												1	1			
i. Deregulate Jitneys					1																1																								1				
l. Electric Energy Restrictions							1							1								1		1	2	1					1	1	3										1	1				
a. Commercial Lighting						3	3							4										2							1	3												4	1			
b. Residential Lighting							2																	2								3																
c. Reduce Transmissions to Large Customers							3							1										3							1	3															
d. Electric Rates Surcharge							4																	1																								
m. Provisions for Natural Gas							3							1								1			2	1					1	1	3										1				
n. Specifically Restrict Heating/Cooling	1					3	1							1								1		1	2	1					1		3	1									1	1			
a. Non-residential	4					3	3							4								3		4									3	3										1	1			
b. Residential						3	2							3								4		2									3	3										1				
o. Restrict Retail Operations				4	3						4		3					4				2		4	1						3	1											4				
p. School System Conservation	4		3		1	1	1						1	1								4		3	1	1						3												1			1		
a. Restrict Student/Teacher driving			1			1								3								4										3														2		
b. Restrict Extracurricular Events						3								3								4										1												1			
c. Regulate Hours/days						3								3	3				4			4										1															
q. Public Events Restricted						3								4					4																														

(continued next page)

SUMMARY OF STATE EMERGENCY ENERGY CONTINGENCY PLANS

	ALABAMA	ALASKA	ARIZONA	ARKANSAS	CALIFORNIA	COLORADO	CONNECTICUT	DELAWARE	FLORIDA	GEORGIA	HAWAII	IDAHO	ILLINOIS	INDIANA	IOWA	KANSAS	KENTUCKY	LOUISIANA	MAINE	MARYLAND	MASSACHUSETTS	MICHIGAN	MINNESOTA	MISSISSIPPI	MISSOURI	MONTANA	NEBRASKA	NEVADA	NEW HAMPSHIRE	NEW JERSEY	NEW MEXICO	NEW YORK	NORTH CAROLINA	NORTH DAKOTA	OHIO	OKLAHOMA	OREGON	PENNSYLVANIA	RHODE ISLAND	SOUTH CAROLINA	SOUTH DAKOTA	TENNESSEE	TEXAS	UTAH	VERMONT	VIRGINIA	WASHINGTON	WEST VIRGINIA	WISCONSIN	WYOMING
A. PLAN INFORMATION																																																			
1. No. Plan in Development																													1																							
2. Draft Plan Being Written		1	1							1	1	1		1				1		1					1					1			1		1		1	1	1	1		1				1	1			
3. Draft Outline Written	1																1				1																															
4. Draft Plan Published				1	1	1	1	1	1				1	1	1	1			1	1		1	1		1	1	1	1				1	1	1	1									1	1	1	1			
5. Final Plan Sent to U.S. DOE																										1	1																									
6. Type Plan																																																		
a. Travel/Motor Fuel Oriented	1			1	1	1			1				1	1	1			1		1	1	1			1																				1	1					
b. Oriented to Various Energy Sources							1	1									1									1	1	1		1	1		1	1			1									1				
7. Seeks Production/Supply Increase																		1										1																					1		
B. ENERGY EMERGENCY DEFINITION																																																		
1. Stages Defined Physically (gasoline lines)	1			1	1	1	1	1				1		1						1	1	1			1	1	1	1					1											1	1	1	1			
2. Stages Defined as Percent Shortfall	1			1	1		1	1				1				1				1		1			1	1	1																	1		1				
3. Extraordinary Authority Depends on Degree of Energy Emergency				1	1		1	1																				1																						
4. Stages Above "Pre-Emergency"	1			3	3	1	2	3	3				1		1	2		1		2		1	2		2			3	3	2			1	2		1	2		3					4	4		4	3	
5. Includes Impending Shortage				1	1	1		1	1							1	1					1			1	1	1	1				1	1										1						
C. ENERGY EMERGENCY MANAGEMENT																																																		
1. Emergency Declaration Procedure						1	1																																											
2. Establishes Energy Emergency Advisory Committee			1				1	1																		1	1																							
3. Reorganization of State Agencies/ Assigns Agency Responsibilities/ Delegation of Power			1	1		1	1	1				1	1	1						1			1		1	1				1		1	1											1		1			
4. State Energy Office has primary Coordination Role	1			1	1		1	1								1	1									1						1												1					
5. Recognized PUC Authority							1	1																				1					1																
6. Calls for Federal/State/Local Coordination							1	1					1																																					
7. Specified Local Government Role				1	1		1	1					2				1					1	2		2							1	1		2									1	1		1		
8. Private Sector Consulted				1		1	1	1									1	1								1						1	1																
D. INFORMATION																																																		
1. Public Education	1			1	1	1	1	1	1				1	1	2	1		1		1	1	1			1	1						1	1			1									1	1		1		
2. Data Collection				1	1	1	1	1					1		1			1			1	1			1	1																									
a. Prior Investigation and Surveys				1	1		1	1										1							1	1																								
b. Specific Information Gathering Procedure				1	1		1	1											1						1	1	1	1																						
c. Monitoring System				1		1	1	1					1		1			1			1	1			1	1																									
d. Subpoena/deposition authority							1	1										1																																
e. Confidentiality							1	1										1															1																
E. EMERGENCY MEASURES																																																		
1. Seeks Production/Supply Increase				1			1	1																																									
2. Fuel Allocation/Rationing/Distribution				1	1	1	1	1					1	1				1	1	1	1	1			1	4	1					1											1	3	1				
a. State Set-Aside				1	1		1	1										1				1			1	1						1																
(1) Middle distillates				1			1	1																		1						1																
(2) Propane							1	1																																									
(3) Gasoline				1	1		1	1																								1																
b. Pricing Surcharges				1	1		1	1					1	1								1	1		1	1						1																
c. Stockpile Fuel							1	1																																									

(continued next page)

SUMMARY OF STATE EMERGENCY ENERGY CONTINGENCY PLANS

	ALABAMA	ALASKA	ARIZONA	ARKANSAS	CALIFORNIA	COLORADO	CONNECTICUT	DELAWARE	FLORIDA	GEORGIA	HAWAII	IDAHO	ILLINOIS	INDIANA	IOWA	KANSAS	KENTUCKY	LOUISIANA	MAINE	MARYLAND	MASSACHUSETTS	MICHIGAN	MINNESOTA	MISSISSIPPI	MISSOURI	MONTANA	NEBRASKA	NEVADA	NEW HAMPSHIRE	NEW JERSEY	NEW MEXICO	NEW YORK	NORTH CAROLINA	NORTH DAKOTA	OHIO	OKLAHOMA	OREGON	PENNSYLVANIA	RHODE ISLAND	SOUTH CAROLINA	SOUTH DAKOTA	TENNESSEE	TEXAS	UTAH	VERMONT	VIRGINIA	WASHINGTON	WEST VIRGINIA	WISCONSIN	WYOMING
11. Agricultural Program									1						2											22																									
12. Social Service/Low Income Assistance									1						1																																					
13. State Government Contingency Program	1		3						3			4			2	1	1			4	1	4		1	4	4			4	1	4			1	4			1				1	1	1	1		1	1	
a. Employee Transit/Carpool/Vanpool									3						2	1					2	4		2	4				2	4													2		3	4			
b. Parking Management									1						2						2			2	4																				3	4			
c. Flex-time/Staggered Hours			1						2							1					2	4			4				4	2														3	2			
d. Compressed Workweek																4	2				2	4			4				4															4	1			
e. Reduce Official Travel									3						2	4	4				1																								3	4			
f. Reduce Consumption by Specific %												4			2					4				3	5																				3				
g. Reduce Auto Use			1						4			4																																					
h. Ration to State Agencies									1																																								
i. Choice of Actions at Agency Discretion									1						1	1						1																											1	
14. Business Contingency Program	4		3	1	1	4	3								2	1				4	1	4		2	2	1			3	2	1			3	1	3					3	1	3	3	1			
a. Employee Transit/Carpool/Vanpool	1		1	1	2	3	1								2	1	2				2	6		3					3	2												2		3	2			
b. Parking Management	1		1	1	1	3	1								2	1					1	4		2					3						3							2		3	2			
c. Flex-time/Staggered Hours	1		1	2	2	3	1								2	1				4	1	4			2	1			3						3							2		3	2			
d. Compressed Workweek	1		1	2	2	3	2								2	1	2			4	1	4							3						3							2	1	3	2			
e. Business Travel Reductions							2								2							4				2			2	1												3	2	3	2			
f. Employer Choice of Measures	1		1				1								1	1					1	1				1			1																	1		
F. ENFORCEMENT/EXEMPTIONS	1			1	1	1									1	1	1		1	1	1	1		1	1	1			1	1				1							1		1		1			
1. Enforcement Procedures			1			1																																				1						
2. Civil Penalties			1			1													1			1																									1	
3. System of Exemptions/Appeals	1		1	1	1	1									1	1			1	1	1	1		1	1	1			1	1				1							1	1		1	1		

4/15/82

QUESTION SUBMITTED BY SENATOR WEICKER

Question: Considering that in its FY 1984 budget request the Administration is proposing to eliminate funding for the DOE weatherization program and that the Administration has indicated it will continue the HHS and HUD weatherization grant programs, would you please review the attached opinion of the American Law Division of the Congressional Research Service of the Library of Congress (ALD opinion) indicating that DOE does not have authority to transfer the DOE low-income weatherization program to HHS or HUD without legislation and inform the Subcommittee whether DOE agrees with that opinion.

Answer: DOE has reviewed the ALD opinion and has found that there is no conflict between what DOE has proposed for the weatherization grant program and the ALD opinion. DOE has pointed out that there is authority to conduct weatherization assistance programs in other Federal agencies and that the Administration considers weatherization programs to be more appropriately conducted in these other agencies. For these reasons, DOE is not requesting funds for the weatherization program it administers for FY 1984, and if no funds are appropriated for the program, DOE will not make grants under the program. The ALD opinion indicates on pages CRS-2 and CRS-4 that DOE is not required to conduct the weatherization program if Congress adopts the DOE budget and does not appropriate funds for the program.

Congressional Research Service
The Library of Congress

Washington, D.C. 20540

February 28, 1983

TO : Senate Small Business Committee
Attention: Jack Gleason

FROM : American Law Division

SUBJECT : Transfer of Low Income Weatherization Program From The Department of Energy to Another Department

This memorandum is in response to your request for a legal opinion as to whether or not the Secretary of Energy may transfer the Low Income Weatherization Program from his Department to either the Department of Health and Human Services or the Department of Housing and Urban Development, without additional legislation.

The Low Income Weatherization Program was originally enacted as part of the Energy Conservation and Production Act of 1976, Public Law 94-385.[1/] As currently amended, this legislation directs the Secretary of Energy to develop and implement a program of assistance for low income individuals, in order to enable them to weatherize their dwellings through such measures as caulking and weatherstripping, insulation, storm windows and doors, and furnace [illegible]ations.[2/] It is clear from the

---

1/ Sections 411-422.

2/ 42 U.S.C. §§ 6861-6873.

statutory language that this particular weatherization program is to be carried out by the Secretary of Energy. As stated in the legislation: 3/

> (a) Development and conduct of program by Secretary; grants to States and Indian tribal organizations. The Secretary [of Energy] shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program....
>
> (b) Consulation by Secretary with other Federal departments and agencies on development and publication in Federal Register of proposed regulations, required regulatory provisions. The Secretary, after consultations with the Director [of OMB], the Secretary of Housing and Urban Development, the Secretary of Health, Education and Welfare [Health and Human Services], the Secretary of Labor, the Director of the ACTION agency, and the heads of such other Federal departments and agencies as the Secretary deems appropriate, shall develop and publish in the Federal Register for public comment... proposed regulations to carry out the provisions of this part....

By use of the words "The Secretary shall develop and conduct... a weatherization program," and by requiring the Secretary of Energy to consult with other Secretaries, including the Secretary of Housing and Urban Development and the Secretary of Health and Human Services, it is clear that Congress intended the Secretary of Energy to carry out this program, and that the other Secretaries and Departments named should have a consulting, but not the primary decisionmaking, role.

Thus, unless additional authority exists for the Secretary of Energy to transfer his assigned functions under this Act, he is required to conform to the intent of Congress by carrying out his assigned duties, at least to the extent that funds are appropriated

---

3/ 42 U.S.C. § 6863(a),(b)

and available for this purpose. Local 2677, American Federation of Government Employees v. Phillips, 358 F. Supp. 60 (D.D.C. 1973); Train v. City of New York, 420 U.S. 35 (1974).

A review of the Department of Energy Organization Act reveals that the Secretary of Energy does have certain authority to delegate functions and to reorganize the Department. For example, the Secretary may delegate functions assigned to him to other officers and employees of the Department.[4/] Further, the Secretary is given the power to reorganize the Department of Energy, and to establish, alter, consolidate or discontinue organizational units within the Department as he deems appropriate.[5/] Utilizing these provisions, the Secretary may delegate the Low Income Weatherization Program responsibilities to other officers within the Department, or may place these functions in a particular administrative unit of the Department, as he deems appropriate. But these statutory provisions do not provide authority for the Secretary to transfer the Low Income Weatherization Program out of the Department of Energy.

Further, it should be noted that under the Reorganization Act,[6/] the President had the authority to transfer functions from one department to another, through the use of reorganization plans. However the President's authority to act under the Reorganization Act expired in 1981,[7/] and to date has not been renewed. Thus, this

---

4/ 42 U.S.C. § 7252.

5/ 42 U.S.C. § 7553

6/ 5 U.S.C. §§ 901-912.

7/ 5 U.S.C. § 905(b).

mechanism is not available for transfering the Low Income Weatherization Program.

Of course, it is possible that other agencies or Departments, including the Department of Housing and Urban Development and the Department of Health and Human Services have independent statutory authority to conduct similar programs. However, this does not relieve the obligation placed upon the Department of Energy to carry out its responsibilities under the Energy Conservation and Production Act, to the extent that funds are provided, regardless of whether other agencies or the Departments have similar authority. 8/

In sum, an examination of the relevent statutes reveals that Congress specifically directed that the Low Income Weatherization Program provided for in the Energy Conservation and Production Act of 1976 be carried out by the Secretary of Energy or his designees within the Department of Energy. Since neither the President nor the Secretary of Energy have the authority to transfer this program to another Department through administrative action, it must be carried out, to the extent that funds are appropriated and available, by the Department of Energy, unless Congress, by law, provides otherwise.

Raymond Natter
Legislative Attorney

8/ However, utilizing the procedures contained in the Congressional Budget and Impoundment Control Act 2 U.S.C. §§ 681-688, the President could ask for a recession or deferral of funds appropriated for the Department of Energy's weatherization program. If funding was continued for the weatherization programs carried out by other agencies or Departments, the Department of Energy's program would be effectively "transferred" to these other Departments. However, an actual transfer of the specific program presently authorized for the Department of Energy would not take place under this scenario.

Question 2. In response to a question by Senator Weicker, you indicated that you did not recall having committed yourself to prepare any information relating to conservation program priorities at spending levels of $200 million, $300 million and $400 million. To refresh your memory, there are attached copies of two pages from the FY 1983 oversight hearings (Committee on Energy and Natural Resources publication 97-71) giving specific reference to this data.

Subsequently, in April of 1982, you replied to a further request for this information by the Subcommittee that you ". . . find it to be inappropriate to develop budgets of varying levels which could be used as a substitute for the President's budget."

The Subcommittee is appreciative of your present willingness to provide such data, just as the Department of Interior and Department of Agriculture have recently done for the Committee, but is puzzled as to why the material could not have been made available at an earlier date. Can you explain this, please?

Answer: My review of the record you reference indicates that I committed to examine all of the programs under my jurisdiction in terms of Accomplishments to date and to determine the possible next steps in each technology area. I find no commitment to provide the Committee with a formal submission. The Department reviewed the conservation programs' accomplishments and used the results of this review to prepare the FY 1984 budget request.

Senator WEICKER. Senator Percy noted that the appropriations subcommittee asked you to prepare plans for conservation programs with funding at three different levels—200 million, 300 million, and 400 million.

Can you inform the subcommittee what progress you have made in developing these plans?

Mr. TRIBBLE. Starting this afternoon we will begin to examine all the programs that are under my jurisdiction. We have all of them set up on what we term a management by objective system. We will look at the accomplishments that we have set forth in the long-range plan and determine the next steps along the way toward those accomplishments, and we will then rank these in order of priority so that we will be able then to determine what we could do in 1983 with different levels of funding.

Senator WEICKER. The General Accounting Office in their review of the administration's budget proposal for energy and related programs states that GAO believes there is a continuing need for a strong Federal role in key energy areas, including conservation.

The Energy Research Advisory Board report to Deputy Secretary Kenneth Davis states, "In view of the fragmented, underutilized building industry, a Federal role is highly appropriate in this R. & D. field."

The draft report by Oak Ridge National Laboratory says that, on the role of Federal conservation programs, that economists attribute nearly 5 quads of energy savings between 1973 and 1980 to Federal conservation programs, another 7 quads due to rising prices, 10 quads to slower economic growth.

Despite the findings and recommendations of these noted energy experts, the proposal is to terminate 85 percent of conservation R. & D., 100 percent of State and local energy planning, including low-income weatherization.

What specific evidence does this administration have to justify these cuts in the face of these other recommendations?

Mr. TRIBBLE. You mentioned the building industry, and we certainly recognize that the building industry is a diverse industry. There are no very large companies. There is not an association of builders that has any substantial research budget.

I would like to tell you some of the work that we have been doing, and that we will expect to complete in fiscal 1982 toward the development of guidelines for the building industry.

Lawrence Berkeley Laboratory is working on a number of technical reports. The technical report will be based on enhancement of past and current residential research. This effort will be expanded, utilizing funds to produce what is necessary for national guidelines. The residential report can probably be produced within 10 months.

The five prototypes are one-story ranch, two-story, split level, outside townhouse, and inside townhouse. The prototypes used for analysis are the same for each climate area. The number of climate areas addressed ranges from 12 to 48, depending on the p totype. Alaska and Hawaii are included. The number of areas is large enough that we can generate data for any climate situation in the United States. Energy savings information is being generated by LBL under the following headings—annual heating load stated in

3. Q. In response to oral questions at the hearing, Mr. Tribble commented that "work is beginning this afternoon" on a request by Senator Percy to develop alternative conservation scenarios based on three different funding levels of 200, 300, and 400 million dollars. Please apprise the Committee as to the results of that initial session, and any other similar meetings; the proposed deadline for completion of the requested information; and the names of those personnel within DOE assigned to the project.

A. Development of alternative conservation funding scenarios had been intended to respond to Senator McClure's specific request fo such information. However, my purpose in appearing before the Committee was to support the President's budget which was carefully constructed to meet all of the needs of the Federal Government. In my desire to comply with the President's budget, I must take into account the difference in scope of responsibility between the President and the Department and as such, I find it to be inappropriate to develop budgets of varying levels which could be used as a substitute for the President's budget. Accordingly, consistent with administration policy we have discontinued preparing an alternative budget displaying various funding levels.

4/27/82

QUESTIONS FROM THE MINORITY FOR MR. TRIBBLE

(1) What will be your policy for granting waivers to States seeking exemption from Federal Preemption of their State efficiency standards for appliances?

(2) You recently agreed to pay the Natural Resources Defense Council $10,000 in legal fees relating to your failure to comply with the law and issue timely appliance efficiency standards. Would you explain this situation to the Committee?

(3) You have requested no funds for Building Energy Performance Standards and you state that funding currently available will permit the completion of all activities in this area. Won't there be some types of buildings, such as garden apartments which you will not cover in the guidelines?

(4) You state that the Institutional Conservation Program, also known as the Schools and Hospitals program has successfully accomplished its goals and continued funding is not necessary. Furthermore, you state that this program was intended to be a demonstration program.

First, the enabling legislation said that the purpose of the program was "to authorize grants to States and to public and nonprofit schools and hospitals to assist them in identifying and implementing energy conservation maintenance and operating procedures in evaluating, acquiring, and installing energy conservation measures." There is no mention of a demonstration program.

Second, 98% of the Nation's schools and 92% of the hospitals have yet to receive funds for energy conservation measures under this program. 95% of the schools and 90% of the hospitals have yet to receive a technical audit under this program.

How can you say that the program has completed its tasks?

(5) Mr. Tribble, do you know what percentage of the Nation's hospital costs are paid by the Federal Government? The answer is 50%. In 1981 the nation's hospitals spent $3.4 billion on energy costs. That is $2,517 per bed per year or twice what a single family residence pays. Doesn't that suggest the need for a continued Federal role in assuring that our hospitals reduce their inefficent uses of energy?

(6) Last year you provided each of the Nation's car dealers 150 copies of the EPA Gas Mileage Guide for distribution to the public. This year you will only provide 50 copies per dealer. The car dealers are required by law to make them available to the public. Please

provide the Committee with a quantitative explanation as to why 50 copies will be sufficient.

Up until 1982 DOE sent out two editions of the Gas Mileage Guide so as to include all the mid-year models. In 1982 you went to a single printing. How many models were not included in the 1982 edition as a result of this change? How many cars were produced in 1982 of those particular models?

(7) The FY 1982 Supplemental Appropriations bill created a minimum staffing level of 352 people for the Conservation programs. You propose a staffing level of 123, don't you? Isn't this a violation of the mandated staffing level in the FY 1982 Appropriations bill which applied to every subsequent fiscal year?

(8) Are you taking any steps whatsoever to implement your proposed staffing level before you obtain any statutory changes in this mandated staffing provision in the FY 1982 Appropriations bill?

(9) How many staff people do you propose to have to work the State and local programs? Are they supposed to close these programs out in FY 1984?

(10) As you know, under the Warner Amendment to the Interior Appropriations bill $200 million in oil overcharge money was made available to the States for energy conservation and low income energy assistance. Many states will want to use their funds for activities under your state and local programs, such as low income weatherization and the schools and hospitals program, will they not? If you close out these programs then the States will have no delivery mechanism for their funds, will they? Is this good management?

(11) Last year you attempted to transfer Dr. Maxine Savitz, the Deputy Assistant Secretary for Conservation, to a newly created position entitled "the Assistant to the Administrator for Conservation and Renewable Energy in the Western Area Power Administration". We heard much about how important this position is. Has the newly created position been filled? Has Dr. Savitz's position been filled with a permanent replacement? What did you accomplish by forcing Dr. Savitz to transfer even after you learned that she could not accept the position?

(12) Mr. Tribble, I have a statement you made to a Gary K. Hamer on Nov . 19, 1982, as a part of the Savitz matter. In

that statement you said,

> "I emphasized in the beginning to all of my people that this was a new era and that my job, as I saw it, was to cut the budget for this agency."

Do you see yourself as having any other important function as Assistant Secretary for Conservation and Renewable Energy than just cutting the budget?

Appliance Standards

Question 1:

What will be your policy for granting waivers to States seeking exemption from Federal Preemption of their State efficiency standards for appliances?

Answer:

This Administration's policy of New Federalism supports the freedom of the States to take regulatory actions they deem appropriate to State or local interests, so long as these actions do not unduly burden interstate commerce. Accordingly, in the last Congress, the Administration indicated it would not oppose one bill that would have legislatively eliminated any Federal standard and any automatic Federal preemption if no-standard rule for a product were adopted.

However, so long as current provisions of the Act remain in effect, the Department will faithfully execute the law and, if petitioned, determine the appropriateness of State and local standards in each particular case. With respect to the existing laws that the Department has reviewed as part of the appliance standards rulemaking, DOE believes that, in general, these laws have not had an adverse effect on interstate commerce.

Appliance Standards

Question 2. You recently agreed to pay the Natural Resources Defense Council $10,000 in legal fees relating to your failure to comply with the law and issue timely appliance efficiency standards. Would you explain this situation to the Committee?

Answer: As part of the settlement agreement with the Natural Resources Defense Council (NRDC) and Consumers Union (CU), the Department of Justice agreed to a judgment find to reimburse NRDC and CU for attorney's fees. NRDC was reimbursed $7,440 for 90 hours at $80.00 per hour while CU was reimbursed $2,200 for 32 hours at $80.00 per hour.

Question 3. You have requested no funds for Building Energy Performance Standards and you state that funding currently available will permit the completion of all activities in this area. Won't there be some types of buildings, such as garden apartments, which you will not cover in the guidelines?

Answer: The Department is currently developing standards for the Federal sector and voluntary guidelines for the private sector for new buildings. For commercial buildings, these guidelines and standards take the form of recommendations for upgrading ASHRAE Standard 90A-1980. To evaluate the recommendations, computer simulations, utilizing the DOE 2.1 energy analysis tool, have been run on ten building types, in five climate zones, and with two-four different equipment systems per building, for a total of approximately 200 different simulations. The ten building types represented include medium and large office buildings, a department store, a church, a warehouse, a strip shopping center, a hotel, a multi-story apartment building, a branch bank, and a school. Some building types are not covered, including hospitals.

For residential buildings, multifamily low-rise, and garden apartments have not been covered. The Department has, however, analyzed seven prototypes, again using DOE 2.1. These include ranch, two-story, split-level, mid and end-unit townhouse, 4-plex and 8-plex. The latter two are low-rise multi-family units, essentially the same as garden apartments, and are the predominant new housing type of the Federal Government.

QUESTIONS FROM THE MINORITY FOR MR. TRIBBLE

Schools and Hospitals Program

Question: You state that the Institutional Conservation Program, also known as the Schools and Hospitals program has successfully accomplished its goals and continued funding is not necessary. Furthermore, you state that this program was intended to be a demonstration program.

First, the enabling legislation said that the purpose of the program was "to authorize grants to States and to public and nonprofit schools and hospitals to assist them in identifying and implementing energy conservation maintenance and operating procedures in evaluating, acquiring, and installing energy conservation measures." There is no mention of a demonstration program.

Second, 98% of the Nation's schools and 92% of the hospitals have yet to receive funds for energy conservation measures under this program. 95% of the schools and 90% of the hospitals have yet to receive a technical audit under this program.

How can you say that the program has completed its tasks?

Answer: The National Energy Conservation Policy Act (NECPA) authorized $875 million to be appropriated for technical assistance (TA)/energy conservation measures (ECM) grants for schools and hospitals. Through FY'82, almost half of this authorized amount ($433 million) has been appropriated resulting in the percentages cited. Based on these figures, it is clear that NECPA did not intend to provide assistance to all eligible institutions. Therefore, in view of this and the fact that it would be cost prohibitive to attempt to provide assistance to all eligible institutions, the DOE is recommending that the program be terminated at this time.

Question: Mr. Tribble, do you know what percentage of the Nation's hospital costs are paid by the Federal Government? The answer is 50%. In 1981 the nation's hospitals spend $3.4 billion on energy costs. That is $2,517 per bed per year or twice what a single family residence pays. Doesn't that suggest the need for a continued Federal role in assuring that our hospitals reduce their inefficient uses of energy?

Answer: Reducing hospital energy costs is in the best interests of the hospitals as well as the Federal Government. In view of this, the DOE is examining the need for a continued Federal role in institutional energy conservation and, if so, what that role should be. Additionally, the DOE is working jointly with the Department of Health and Human Services to remove regulatory barriers and to provide incentives for hospitals to undertake energy conservation initiatives on their own.

Q.(6) Last year you provided each of the Nation's car dealers 150 copies of the EPA Gas Mileage Guide for distribution to the public. This year you will only provide 50 copies per dealer. The car dealers are required by law to make them available to the public. Please provide the Committee with a quantitative explanation as to why 50 copies will be sufficient.

A: An examination of the utilization of the Model Year 1982 Guide disclosed that 1,700,000 of the 7,400,000 copies printed were in excess at end of the Model Year. This represents a waste of approximately $120,000. Recognizing that the downturn in new car sales and other factors such as the easy availability and price stability of gasoline may have resulted in a changed pattern of Guide demand, it was determined that the cost effectiveness of the Model Year 1983 Guide could be improved by limiting the initial distribution to dealers and providing only a minimum number of copies to TIC for reorders. Those dealers who required more than 50 copies could reorder from TIC, as required. When or if the stocked quantity at TIC proved insufficient to meet the demand, another printing of the Guide using updated EPA data could be effected. By this means all consumers and dealers desiring copies could be satisfied while the likelihood of waste would be minimized.

Question 7. The FY 1982 Supplemental Appropriations bill created a minimum staffing level of 352 people for the conservation programs. You propose a staffing level of 123, don't you? Isn't this a violation of the mandated staffing level in the FY 1982 Appropriations bill which applied to every subsequent fiscal year?

Answer: The budget request does reflect staffing numbers different from the legislated floors. This is consistent with the proposed repeal language included in the budget submission. Reflecting the impacts of proposed legislation in this manner is a standard practice and is not intended in any way to violate the mandate established by law.

Question 8. Are you taking any steps whatsoever to implement your proposed staffing level before you obtain any statutory changes in this mandated staffing provision in the FY 1982 Appropriations bill?

Answer: No. In fact, we are making every effort to maintain staffing levels at the levels mandated by law.

Question 9: How many staff people do you propose to have to work the State and Local Programs? Are they supposed to close out these programs in FY 1984?

Answer: A staffing level of 65 FTE has been requested for the State and Local Assistance Programs in FY 1984. Of these positions, 15 will be assigned to the Headquarters to provide overall management, administrative support and general guidance. The remaining 50 positions will be located in field offices to provide administrative oversight of uncosted obligations, monitoring of individual grants awarded late in FY 1983, and to perform those activities necessary to close out the programs in FY 1984.

Question 10.

As you know, under the Warner Amendment to the Interior Appropriations bill, $200 million in oil overcharge money was made available to the States for energy conservation and low-income energy assistance. Many States will want to use their funds for activities under your state and local programs, such as low-income weatherization and the schools and hospitals program, will they not? If you close out these programs, then the States will have no delivery mechanisms for their funds,will they? Is this good management?

Answer:

We would expect that the funds made available under the Warner Amendment will be expended during FY 1983, while delivery mechanisms now in place are available. If any of the Warner Amendment funds do carry over into FY 1984, those funds should be administered by the State energy offices.

Question 11. Last year you attempted to transfer Dr. Maxine Savitz, the Deputy Assistant Secretary for Conservation, to a newly-created position entitled "the Assistant to the Administrator for Conservation and Renewable Energy in the Western Area Power Administration." We heard much about how important this position is. Has the newly created position been filled? Has Dr. Savitz' position been filled with a permanent replacement? What did you accomplish by forcing Dr. Savitz to transfer even after you learned that she could not accept the position?

Answer: The position in question has not yet been filled. The Western Area Power Administration has been actively recruiting to fill the vacancy, and expects to make a selection in the near future. The position of Deputy Assistant Secretary for Conservation is now filled on a temporary basis. It is our intent to fill it on a permanent basis within the next few months.

Question 12. Mr. Tribble, I have a statement you made to Gary K. Hamer on November 19, 1982, as a part of the Savitz matter. In that statement you said, "I emphasized in the beginning that this was a new era and that my job, as I saw it, was to cut the budget for this agency." Do you see yourself as having any other important function as Assistant Secretary for Conservation and Renewable Energy than just cutting the budget?

Answer: I took the position of Assistant Secretary recognizing the importance of reducing the overall Federal budget. I also felt that the Federal Government had gotten involved in a number of conservation and renewable energy activities which were not the responsibility of the Federal Government. I felt that others could be redirected and made more effective and with less cost. It is in this context that I approached the need to "cut the budget of this agency." Equal recognition is given to the need to continue Federal support in those areas where the private sector is unwilling or unable to conduct relevant R&D, if the technology in question has the potential for contributing significantly to the Nation's energy needs.

Department of Energy
Washington, D.C. 20585

March 16, 1983

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are the responses to questions sent to J. Erich Evered, Administrator Energy Information, by the Honorable J. Bennett Johnston, relating to the March 8, 1983, hearing before the Energy and Natural Resources Subcommittee on Energy Conservation and Supply.

If you have any questions, please call Hank Edler or Tom Pretorius of my staff on 252-4277. They will be happy to assist you.

Sincerely,

Thomas N. Pretorius

for Robert G. Rabben
Assistant General Counsel
for Legislation

Enclosure

Department of Energy
Washington, D.C. 20585

March 11, 1983

The Honorable J. Bennett Johnston
Ranking Minority Member
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Senator Johnston:

The questions which you sent me by your letter of March 8, 1983, have been answered and are included herein. Please do not hesitate to call me should you need further information.

Sincerely,

Erich

J. Erich Evered
Administrator
Energy Information Administration

Enclosure

Question 1: On page 4 of the statement supplied to the Committee in advance of the hearing you mention legislation entitled "Energy Information Administration Amendments of 1981."

Is the administration planning to submit such legislation to Congress this year? What problems is this legislation supposed to address?

Answer: The Administration is considering legislation similar to that submitted last Congress that would eliminate the legislative requirement to conduct certain programs. The legislative changes under consideration would reduce both Government costs and the paperwork reporting burden imposed on the public. Elimination of these requirements in no way diminishes EIA's role as the nation's authoritative source of energy information. These programs generally fall outside EIA core requirements to maintain basic energy statistics and to prepare relevant analyses, are duplicative of information available elsewhere, or are no longer necessary. They include quarterly reports on a broad range of energy activity, maintenance of a detailed data file on coal and oil exports, mid- and long-term energy forecasts, the Financial Reporting System, a detailed report on coal reserves, and detailed data on middle distillate supply and demand by State. The problem of improving the interagency sharing of company-specific data for statistical purposes will be addressed in a separate proposal.

Question 2: Please provide the Committee with a description of the reporting requirements, the budget authority and outlay estimates, and the number of staff to carry out the provisions of the Emergency Energy Conservation Act, assuming such provisions are extended by Congress through fiscal years 1983 and 1984.

Answer: Section 242 of the Emergency Energy Conservation Act requires the development of a Middle Distillate Monitoring Program. The reporting requirements under Section 242 include State level data concerning the refining, wholesale, and retail supply and demand of middle distillates. These requirements, coupled with the decontrol of petroleum product prices, prompted an extensive user survey of information needs in this area which was conducted last year, resulting in a revised petroleum product survey. This new survey, which contains middle distillate sales information, is accommodating all user needs. While it is possible this survey could be more comprehensive, it would require the creation of large universe lists and sampling frames which do not now exist in order to achieve an acceptable level of accuracy for sales data by State. Development of the expanded survey would require precision at ten times the current level - accompanied by an enormous increase in respondents and survey processing requirements. The expanded sampling frames would require a tremendous effort since EIA does not have access to the universe lists maintained by other Federal statistical agencies, and those lists, if available, might not contain all required attributes. EIA estimates that $8.6 million in budget authority, $8.6 million in outlays, and 25 staff years would be required annually assuming these provisions are extended by Congress through fiscal years 1983 and 1984.

Question 3: Your budget appears to assume no activity on EIA's part to implement the Financial Reporting System (FRS) required under section 205(h) of the Department of Energy Organization Act.

(a) We understand that, in recent Congressional testimony, you stated your belief that you have an "agreement by the Congress as a whole with (your) proposal to discontinue" the FRS. Apparently this belief is based on the absence of specific direction by Congress to implement the FRS in the most recent appropriation Act governing EIA. Your position seems to be that although the Administration's appropriations request in aggregate would clearly permit continuation of the FRS program, Congress in appropriating this request must specifically direct that FRS be continued in order for the legal requirement for the program to remain.

Is this your position? If not, would you please describe what you have been saying about this matter and what your understanding of the situation is.

(b) Would you interpret an absence of comment by Congress with respect to your current FY 1984 budget request for EIA as relief from the requirement in law that you establish and maintain the FRS program? If so, why?

(c) Would you interpret enactment of appropriations legislation containing funding for EIA at the level you request but without additional comment as relief from these requirements? If so, why?

(d) Do you infer any Congressional intent with regard to the FRS from Congress' enactment of section 205(h) on one hand and its failure to enact the "Energy Information Act Amendments of 1981" on the other? If so, what intent?

Answer: The appropriation for the Energy Information Administration (EIA) for fiscal year (FY) 1983 is not sufficient to conduct all programs that are required by statute. Accordingly, priorities had to be placed on the programs competing for these limited resources. My decision was to devote these resources to maintain an acceptable level of quality of the National Energy Information System which is central to our mission. In addition to the Financial Reporting System (FRS), I have determined that the mid- and long-term forecasting activities and the Coal Reserves Disclosure Reports will not be conducted. All of these programs are required by statute. Again, with insufficient resources to conduct all mandated programs I chose to allocate our resources to those activities which were most vital to our mission to carry out a central, comprehensive and unified energy data and information program. The alternative would be to prorate these resources, the result of which would certainly be shabby treatment of key information systems.

In a spirit of full disclosure, this order of priorities was reflected in the FY 1983 budget request, and there was nothing in the congressional reports to the FY 83 appropriation act that indicated disagreement with those priorities. This constitutes the tenor behind your quoted portion of my recent testimony before the House Appropriations Subcommittee on Interior and Related Agencies. During that session I also said: "I in no way deny that the requirement is in the law. I am simply saying that within the resources justifiably allocable to the Energy Information Administration in the current situation, not everything can be done."

Briefly summarizing, then, my responses to your particular questions would be as follows:

(a) I do not contend that Congress must specifically direct continuance of the FRS for its legal requirements to remain in force. It is my position, however, that when Congress appropriates in a lump sum an amount undisputably insufficient to carry out all of EIA's mandatory statutory programs, including the FRS, it is appropriate to allocate that appropriation in a manner consistent with my best understanding of the intent of Congress in making that appropriation.

(b) I do not draw any inference from Congressional action to date on FY 1984 budget proposals with respect to our legal duties concerning FY 1983 programs, including the FRS.

(c) I have yet to experience enactment of an appropriations bill at the precise level requested in the Administration's budget for the EIA without any comment by the Congress. Were I confronted with such a circumstance, as a common sense matter I would construe this action as a direction to proceed for the relevant fiscal year in a manner consistent with the EIA proposal and its ancillary descriptions. I would not interpret such action on a budget proposal as repealing substantive law.

(d) The only inference I draw from Congress' failure to enact the Energy Information Administration Amendments of 1981, after having enacted 205(h) in the first instance, is that the Congress has declined to repeal from permanent law the requirements and authorities of section 205(h).

Question 3(e): Please provide the Committee with your analysis of the relevance of the Supreme Court's recent decision in the case of Tennessee Valley Authority v. Hill, as it affects legislation on appropriations bills. In particular, we seek your comment on the following statements by the Court:

> "We recognize that both substantive enactments and appropriations measures are 'Acts of Congress,' but the latter have the limited and specific purpose of providing funds for authorized programs. When voting on appropriations measures, legislators are entitled to operate under the assumption that the funds will be devoted to purposes which are lawful and not for any purpose forbidden. Without such an assurance, every appropriations measure would be pregnant with prospects of altering substantive legislation, repealing by implication any prior statute which might prohibit the expenditure."
>
> 437 U.S. at 190

and

> "Expressions of committees dealing with requests for appropriations cannot be equated with statutes enacted by Congress, particularly not in the circumstances presented by this case"
>
> 437 U.S. at 191

(f) Provide the Committee with a memorandum from the General Counsel of the Department explaining and commenting on the legal basis for your proposal to discontinue the FRS program.

Answer: Response to these inquiries are included in the attached memorandum from the DOE Office of General Counsel.

Department of Energy
Washington, D.C. 20585

March 11, 1983

MEMORANDUM FOR: J. Erich Evered
Administrator
Energy Information Administration

FROM: Acting General Counsel

SUBJECT: Legal Questions Posed by Senator J. Bennett Johnston's Letter of March 8, 1983

In subsections (e) and (f) of question three transmitted by Senator Johnston's letter of March 8, you have been requested to provide an analysis of certain excerpts from the Supreme Court's opinion in TVA v. Hill, 437 U.S. 153 (1978), and you have been asked to provide a memorandum from this office "commenting on the legal basis for your proposal to discontinue the FRS program."

In TVA v. Hill the Court was confronted by the contention that the Congress, in consciously making appropriations for a public works project but directing its continuance solely by resort to legislative history, had repealed pro tanto application of the Endangered Species Act with respect to that project. The Court concluded that such repeal had not occurred, relying on the general doctrine that repeals by implication are disfavored. The Court found that the doctrine applies with even greater than normal force "when the claimed repeal rests solely on an Appropriations Act." 1/ The Court grounded its position in part on the fact that interpreting, by resort to its legislative history, an appropriations act as having repealed substantive legislation would require the assumption that Congress had employed a procedure expressly forbidden by the House and Senate rules proscribing legislation on an appropriations bill. 2/ In our view, this case involved application to its particular circumstances the general rule enunciated by the Court that "legislative intention, without more, is not legislation." 3/

1/ TVA v. Hill, 437 U.S. 153, 190 (1978).

2/ Id. at 191.

3/ Train v. City of New York, 420 U.S. 35, 45 (1975).

Question 3(f), which seeks our comments on "the legal basis for your proposal to discontinue the PRS program," by its terms appears directed to the FY 1984 budget proposal, and the spending plan described more fully in the documents ancillary to the budget proposal itself.

The FY 1984 budget proposal made by the President is, of course, grounded on his duty under Article II, Section 3 of the Constitution to ". . . recommend to [the Congress'] consideration such measures as he shall judge necessary and expedient. . . ." The major elements of each budget submission likewise are required by the Budget and Accounting Act of 1920, as amended. The President is, of course, free to make proposals that depart from existing law. Indeed it has become customary for Presidents to formulate their budgets in coordination with the major elements of their legislative programs, and even to construct the budget totals on the sanguine assumption that the President's legislative program will be enacted in its entirety.

By question 3(f) Senator Johnston may also be inquiring as to the legal basis for the spending plan proposed for EIA and adopted by the Congress for FY 1983. In this connection, we do not believe that the Congress, in enacting the Department of the Interior and Related Agencies Appropriations Act, 1983, has repealed by implication the authorities and requirements contained in section 205(h) of the Department of Energy Organization Act. Instead Congress has left intact that provision, together with a variety of other statutes imposing requirements of similar dignity on the EIA, but has appropriated for all of the EIA's functions a sum insufficient to carry out all of these statutorily-mandatory functions. This is quite a different situation than that considered by the Court in TVA v. Hill.

When confronted by competing statutory mandates of equal solemnity and a lump sum appropriation that is insufficient to carry out fully each such statutory mandate, it seems reasonable for the administering agency to allocate within that appropriation the amounts appropriated in a manner best designed to carry out the intent of Congress in making appropriations for that fiscal year. 4/ For FY 1983, it is my understanding that you have sought to pursue just such a course of action.

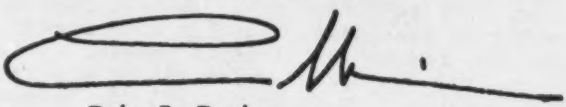
When the Administration's budget request for EIA activities in FY 1983 was considered by the Congress, there was likewise pending before the Congress a proposal that, inter alia,

---

4/ See Winston Bros. v. United States, 130 F. Supp. 374 (Ct. Cl. 1955).

would have repealed section 205(h) of the Department of Energy Organization Act. 5/ Your statements before the Appropriations Committees made it clear that the budget request was premised on discontinuance of the FRS. 6/ The Congress thereafter augmented by $1.9 million the amount requested by the Administration, a lower augmentation than that which had been recommended by the House. The legislative history associated with the House action enumerated the additional functions it anticipated as a result of its action, but none of these functions included continuation of the FRS. 7/ The conference report's description of the additional functions anticipated by the lesser augmentation eventually enacted by the Congress likewise failed to address the FRS. 8/

Accordingly, while the legislative history associated with the 1983 appropriation did not repeal section 205(h) of the Department of Energy Organization Act, it does suggest certain expectations by the Congress in choosing from among the array of statutory functions performed by the EIA. Inasmuch as Congress' action on the 1983 Budget indicated a preference by the Congress to fund certain required statutory activities rather than some others (such as the FRS), together with its awareness that the amount would be insufficient to fund all such activities, I consider it appropriate for you to have acted in conformity with the apparent expectation of the Congress when it enacted the 1983 appropriation.



Eric J. Fygi

5/ S. 1281, 97th Cong., 1st Sess. (1981).

6/ Hearings on the Department of the Interior and Related Agencies Appropriations for 1983 Before the House Committee on Appropriations, 97th Cong., 2d Sess., Pt. 6, at 283; Hearings on the Department of the Interior and Related Agencies Appropriations for Fiscal Year 1983 Before the Senate Committee on Appropriations, 97th Cong., 2d Sess., Pt. 2, at 50 (1982).

7/ H.R. Rep. No. 97-942, 97th Cong., 2d Sess. at 107 (1982).

8/ H.R. Rep. No. 97-978, 97th Cong., 2d Sess. at 37 (1982).

Question 4(a): EIA has been publishing a series of informative studies under the general title of "An Analysis of the Natural Gas Policy Act and Several Alternatives." Parts I - III are generally available. I understand that a draft version of Part IV of the series has been requested by Rep. Sharp, Chairman of the Subcommittee on Synthetic and Fossil Fuels of the House Committee on Energy and Commerce. Please provide the Committee with a copy of this draft. When will the Part IV analysis be completed?

Answer: This answer is being provided under separate cover.

Question 4(b): Has EIA done any analysis of the President's proposal with respect to natural gas policy (that is, S. 615)? Please provide the Committee with a description of work requested or planned and copies of any material which is completed or in draft form. In particular, I would be interested in any views you may have on the paper entitled "Analysis of Natural Gas Consumer Regulatory Reform Legislation" which was made available by the Department of Energy on February 28, 1983, in connection with submission of the proposed legislation now embodied in S. 615.

Answer: The EIA has not yet done an analysis of the President's recent natural gas policy proposal. We have received many requests from many users for natural gas data from our standard publications. We have also received general verbal requests to examine the President's proposal along with other scenarios. We do plan to publish an analysis of natural gas policy alternatives. Among the alternatives will be one representative of the President's proposal; however, we have no plans to do a separate report on it alone. We have no comments on the paper referenced in your question.

Department of Energy
Washington, D.C. 20585

March 11, 1983

Honorable J. Bennett Johnston
Ranking Minority Member
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Senator Johnston:

In response to your request by letter dated March 8, I am enclosing a copy of the most recent working draft of the Energy Information Administration's (EIA) developing analysis report, The Natural Gas Market Through 1990: An Analysis of the Natural Gas Policy Act and Several Alternatives, Part IV.

EIA attaches great importance to the constructive relationship it enjoys with the Congress. Our policy continues to be to make available to committees of the Congress, upon request, any information, materials or documents they require to make informed decisions on energy policy and related matters. Information collection, processing and analysis procedures are objective, repeatable and fully documented. In short, we run an open shop.

It is in this spirit that I provide the enclosed preliminary draft document. However, I feel strongly that it cannot, in its present form, make a constructive contribution to the natural gas debate.

As you are aware, for the past year and a half EIA has been engaged in a comprehensive effort to monitor and assess the condition of the natural gas market under current law, and to project the likely results of selected legislative alternatives. Our findings have been published as multiple parts of the continuing study, An Analysis of the Natural Gas Policy Act and Several Alternatives.

Part I of this series provided a wide variety of information on the current state of the natural gas market (published in December 1981). Part II presented the results of a landmark survey of natural gas producer/purchaser contract terms, providing information on pricing provisions, price escalation clauses, and take-or-pay provisions (published in June 1982). Part III analyzed the Purchased Gas Adjustment filings of twenty interstate pipeline companies in the period following passage of the Natural Gas Policy Act (NGPA) (published in October 1982).

In order to help structure our understanding of the complexities of the U.S. natural gas market, and also to assess rigorously and objectively the likely future outcomes of various natural gas policy alternatives, EIA has constructed a new computer model of the gas market. That model, called the Gas Analysis Modeling System (or GAMS), is large and quite complex and represents a new generation of sophistication in modeling the behavior of the natural gas market. I am unaware of any comparable model in existence today.

Utilizing GAMS as a tool, and drawing upon our knowledge of various aspects of today's natural gas market (much of which information has been uniquely generated by EIA), we are assessing the future of the domestic gas market under the NGPA, as well as the probable outcome of each of several possible alternatives to the NGPA. The policy alternatives represented in the enclosed draft report range from indefinite continuation of the price ceilings and escalation formulas of the NGPA (that is, no partial decontrol in 1985 or 1987), to phased full decontrol incorporating an assumed solution to the perceived "contracts problem" of indefinite price escalation provisions.

As you are aware, this analysis has been a protracted process over the past several months. The preliminary work embodied in the enclosed draft has been overtaken by events in and related to the natural gas market, including important recent changes in the world oil market and prospects for reduced gas demand. That is why I feel the document in its present form is not useful. We are currently in the process of updating our views and assumptions, fine-tuning the GAMS model and input data files, and performing some needed information updates and related work. We plan to have a report of our scenario analysis ready for publication within two months.

The analysis described in the enclosed preliminary draft report does not, of course, incorporate the Administration's current natural gas proposal, as recently articulated by Energy Secretary Donald Paul Hodel and embodied in S.615. The Administration's approach differs fundamentally from the scenarios examined in the draft report.

It should be emphasized that the enclosed draft is not an EIA publication or analysis report, and it is not to be quoted, referenced or duplicated. Statements, figures or graphs in the report are not to be attributed to EIA or any of its employees.

We at the Energy Information Administration take very seriously our responsibility to provide timely, accurate information and relevant, high quality analytical support to the Congress, the

Executive Branch, and the public. We take pride in our considerable accomplishments in the natural gas area, and look forward to continuing to serve the information needs of the Committee on Energy and Natural Resources.

If you would find additional information useful, please do not hesitate to call me personally.

Sincerely,

J. Erich Evered
Administrator
Energy Information Administration

Enclosure

cc: The Honorable James McClure
Chairman

○